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No. _____

In the Supreme Court of the United States

AGNES BERNARDO, et al.,

Petitioners,

v.

PLANNED PARENTHOOD FEDERATION OF AMERICA. et al.,

Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of California

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

Petitioners Agnes Bernardo, Pamela Colip, and Saundra Duffy-Hawkins (collectively "Bernardo") filed suit against Planned Parenthood Federation of America ("PPFA") and Planned Parenthood of San Diego and Riverside Counties ("PPSDRC") (collectively"PPFA") under Cal. Bus. & Prof. Code ("B.P.C.") §§17200 & 17500, alleging that PPFA makes false and misleading statements about breast cancer risk, and the evidence relating to that risk, in connection with the provision of abortion services to women in the State of California. In lieu of an Answer, PPFA filed a Motion to Strike pursuant to Cal. Civ. Proc. Code ("C.C.P.") §425.16. Bernardo responded by providing evidence in support of her claims as required by the statute. Despite Bernardo's showing, the Superior Court of the State of California, County of San Diego, granted PPFA' motion to strike her Complaint and, later, ordered Bernardo to pay $77,835.25 in fees. The Court of Appeals of the State of California affirmed, awarding further costs and fees to PPFA. The Supreme Court of the State of California denied Bernardo's Petition For Review.

Bernardo now petitions this Supreme Court of the United States for a writ of certiorari. The questions presented are as follows.

1. Does C.C.P. §425.16, Which Authorized the Dismissal of Bernardo's Complaint and Award of Attorneys Fees and Costs, Violate Bernardo's Constitutional right to petition.

2. Does C.C.P. §425.16, Which Authorized the Dismissal of Bernardo's Complaint and Award of Attorneys Fees and Costs, Violate Bernardo's Constitutional right to Due Process of Law.

3. Does C.C.P. §425.16, Which Authorized the Dismissal of Bernardo's Complaint and Award of Attorneys Fees and Costs, Violate Bernardo's Constitutional right to Equal Protection.

PARTIES TO THE PROCEEDINGS

The Petitioners are Agnes Bernardo, Pamela Colip, and Saundra Duffy-Hawkins. Petitioners have no corporate affiliations.

The Respondent if Planned Parenthood federation of America and Planned Parenthood of San Diego and Riverside Counties. Petitioner makes no representations as to Respondent's corporate affiliations.

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OPINIONS BELOW

The only published report of the opinions rendered in this case is the decision of the California Court of Appeal reported as follows: *Bernardo v. Planned Parenthood Federation of America*, 115 Cal. App.4th 322, 9 Cal.Rptr.3d 197, 4 Cal. Daily Op. Serv. 846, 2004 Daily Journal D.A.R. 1025 (Cal.App. 4 Dist. Jan 28, 2004) (NO. D040186, D040866)

JURISDICTIONAL STATEMENT

Bernardo petitions for writ of certiorari with respect to the decision and order striking her claims pursuant to C.C.P. §425.16 entered by the Superior Court of the State of California, County of San Diego, on March 18, 2002, and opinion and order awarding attorneys fees and costs as required by C.C.P. §425.16 entered June 14, 2002, merged in the judgment entered by the Superior Court on July 19, 2002. This Court has jurisdiction over Bernardo's Petition pursuant to 28 U.S.C. §1257(a).

The Attorney General for the State of California has been served with Bernardo's Petition as this case calls into question the constitutionality of C.C.P. §425.16 such that 28 U.S.C. §2403(b) may apply.

STATEMENT OF THE CASE

On August 15, 2001, Bernardo filed suit against PPFA on behalf of the people of the State of California. Clerk's Transcript in DO40866 ("C.T.") pp. 1-20. Bernardo's Complaint identified in exhaustive detail numerous statements that PPFA made about the safety of abortion, the safety of abortion vis a vis childbirth, and the scientific and medical literature linking induced abortion and increased risk of breast cancer; and she further alleged that those statements were false and misleading. C.T. pp. 5-17. Bernardo also alleged PPFA made the statements on their websites-and similar

statements elsewhere–to the public in connection with PPFA' provision of abortion services to consumers in the State of California. C.T. pp. 18-19.

Bernardo advanced claims against PPFA under B.P.C. §§17200 & 17500. In Count I of the Complaint Bernardo alleged that PPFA' false and misleading statements were made in connection with PPFA's offer of abortion services and violated B.P.C. §17200; In Count II of the Complaint Bernardo alleged that PPFA statements constituted false advertising in violation of B.P.C. §17500. C.T. pp. 18-19. Bernardo sought no relief for herself but only injunctive relief that would: (1) restrain PPFA from making false and misleading statements to consumers; (2) require PPFA to provide consumers with a short statement providing truthful and accurate information about the scientific and medical literature addressing the link between induced abortion and breast cancer; and (3) require PPFA to provide this truthful and accurate information to women who had received an abortion from the PPFA. C.T. pp. 19-20.

PPFA's Motion To Strike Bernardo's Complaint.

On November 9, 2001 PPFA filed a Motion To Strike Bernardo's Complaint Pursuant to C.C.P. §425.16 in lieu of an Answer on the merits. C.T. pp. 46-63; 69-139. In pertinent part that C.C.P. §425.16 provides:

> A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

C.C.P. §425.16(b)(1); App. 105a-108a. PPFA argued that Bernardo's Complaint should be struck because Bernardo's

claims infringed PPFA's First Amendment right to free speech and Bernardo could not show a reasonable probability of success on the merits as required by C.C.P. §425.16(b)(1). C.T. 48-64.

Bernardo's Showing Concerning Probability Of Success.

Well aware that PPFA's commercial speech concerning the relative safety and risk of its abortion services, and the link between induced abortion and breast cancer, fell within the terms of C.C.P. §425.16, Bernardo filed her Complaint prepared to demonstrate that she could substantiate her claims as required by the statute.

Bernardo's duty to demonstrate a "probability that the plaintiff will prevail on the claim," see C.C.P. §425.16, was shaped by two related bodies of law. First, the law governing claims brought pursuant to B.P.C. §§17200&17500, which prohibit false and misleading statements made in connection with the provision of goods and services to the public. *See* App. 109a-111a. Second, and relatedly, the law describing "commercial speech" properly subject to regulation pursuant to the state's unquestioned power to legislate for the public health, safety, and welfare.

Section 172000 of the California Business & Professions Code broadly defines unfair competition to be "any unlawful, unfair or fraudulent business act or practice...." B.P.C. §17200. A violation of B.P.C. §17500 is a violation of §17200. *Id.* Section 17500 also prohibits false statements in advertising made in connection with an offer of services. B.P.C. § 17500. Courts have read both sections broadly to effectuate their goal: protecting the public from false and misleading statements made for the sake of profit. *See e.g. Rubin v. Green*, 4 Cal. 4th 1187, 1200 (1993)(law embraces "'anything that can properly be called a business practice and that at the same time is forbidden by law.'"). *People v.*

Toomey, 157 Cal. App. 3d 1, 16-17 (1984)(statements are "false or misleading" under §17500 "'if members of the public are likely to be deceived.... The statute affords protection against the probability or likelihood as well as the actuality of deception or confusion.'"). It is fundamental that B.P.C. §17200 imposes strict liability. *Podolsky v. First Health Care*, 50 Cal. App. 4th 632, 647 (1996). And "[f]alse and misleading representations within the meaning of §17500 necessarily constitute unfair business practices within the meaning of [BPC §17200]". *People v. Dollar Rent-A-Car*, 211 Cal. App. 3d 119, 129 (1989); *See Chern v. Bank of America*, 15 Cal. 3d 866, 876 (1976)(BPC §17500 bars false and misleading statements, understood as those likely to mislead the public).

Both statutes bar statements that are false or misleading due to the omission of material facts. *See e.g. Day*, 63 Cal. App. 4th at 332-33 ("A perfectly true statement couched in such a manner that it is likely to mislead or deceive the consumer, such as by failure to disclose other relevant information, is actionable...."); *People v. Toomey*, 157 Cal. App. 3d 1, 17 (1984)(failure to disclose conditions and limitations on coupons misrepresented nature and value of product). Both sections are routinely used to prevent the deception of consumers regarding the health-risk or efficacy of goods and services. *See e.g. Kahn v. Medical Board of California*, 12 Cal. App. 4th 1834, 1845-47 ((1993)(Physician liable under BPC §17500 for negligently representing that two employees were licensed health care professionals); *Consumers Union of U.S., Inc. v. Alta-Dena Certified Dairy*, 4 Cal.App.4th 963 (1992)(40 day trial over safety of unpasteurized milk); *Consumer Justice Center v. Trimedica International*, 107 Cal. App. 4th 595 (2003)(efficacy of herbal supplements); *Consumer Justice Center v. Natural Balance*, (2002) 98 Cal. App. 4th 1056, 121 Cal.Rptr.2d 799 (same)

Committee on Children's Television v. General Foods Corp, 35 C3d 197 (1985)(nutritional claims made about breakfast cereals); *Stop Youth Addiction Inc. v. Lucky Stores, Inc.*, 17 Cal. 4th 553, 71 Cal.Rptr 2d 731 (1998)(advertising designed to encourage minor consumption of tobacco).

Both statutes impose liability where persons engage in concerted action that results in the dissemination of false and misleading information to the public. *See e.g. Quelimane Co. v. Stewart Title Guaranty Co.*, 19 Cal. 4th 26 (1998)(concerted action/conspiracy to violate UPC); *People v. Bestline Products, Inc.*, 61 Cal. App. 3d 879 (1976)(joint and several liability for scheme to communicate misrepresentations); *People v. Tierney*, 253 Cal. App. . 2d 1 (1967)(conspiracy to violate provisions barring false and misleading advertising). The statutory duty cannot be avoided by reliance on statements disseminated by others. *See e.g. People v. Forest E. Olson, Inc.*, 137 Cal. App. 3d 137, 139 (1982). And there is no non-profit exception to the bar on false and misleading speech. *See e.g. People v. Orange County Charitable Services*, 73 Cal. App. 4th 1054, 1072 (Cal. App. 1999) (sustaining §§ 17500 false advertising liability of charitable fundraisers).

Bernardo also showed that the First Amendment does not prohibit the regulation of false and misleading statements made in connection with an offer of services. Relying on decisions from this Supreme Court of the United States the California Supreme Court has recognized that "government may entirely prohibit commercial speech that is false or misleading." *Kasky v. Nike, Inc.*, 27 Cal.4th 939, 946 (2002) (as modified May 22, 2002). This simply reflects a truism: "false or misleading commercial speech is not protected."). *Florida Bar v. Went For It, Inc.*, 515 U.S. 618, 623-24 (1995) ("commercial speech receives limited amount of protection...and may freely be regulated if it is misleading);

Friedman v. Rogers, 440 U.S. 1, 9, (1979)(citations omitted)("The First Amendment...does not prohibit the State from insuring that the stream of commercial information flows cleanly as well as freely.").

Relying on an extensive body of precedent from this United States Supreme Court as well as its own decisions, the California Supreme Court in *Nike*, recognized that the test for commercial speech consists in a realistic inquiry that focuses on the following factors: (1) the identify of the speaker, as someone engaged in commerce (generally the distribution or sale of goods and services); (2) the intended audience (generally actual or potential buyers of goods or services or someone likely to influence actual or potential customers); and (3) the content of the speech (generally factual representations about the goods or services). *Kasky v. Nike, Inc.*, 27 Cal.4th at 960-63. Of course, *Nike*, rendered while Bernardo's case was pending, simply reflects longstanding decisions from this Supreme Court. *See e.g. Bolger v. Youngs Drug Products Corp.*, 463 U.S. 60, 67-68 (1983)(informational pamphlets concerning contraceptives were commercial speech given their advertising format; reference to a specific product, and the underlying economic motive of the speaker.).

It is fundamental the regulation of commercial speech cannot be avoided by the mixture of commercial and noncommercial speech; for such a rule would eviscerate the regulation of commercial speech. *See e.g. Board of Trustees of the State of New York v. Fox*, 492 U.S. 469, 474 (1989) (finding that "[n]o law of man or of nature makes it impossible to sell housewares without teaching home economics, or to teach home economics without selling housewares."); *Bolger v. Youngs Drug Products Corp.*, 463 U.S. at 67-68,("We have made clear that advertising which 'links a product to a current public debate' is not thereby

entitled to the constitutional protection afforded noncommercial speech.").

And the need to protect consumers from false and misleading commercial speech authorizes the myriad of statutes, regulations, or judicial orders that restrain false speech or require accurate disclosures or curative warnings fully consistent with the First Amendment. *See e.g. Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985)(rule requiring disclosure to ensure information is not misleading is consistent with First Amendment); *see also Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557, 571 (1980)(endorsing a system of prior restraints as an acceptable method of regulating commercial speech.); *see also In Consumers Union of U.S., Inc., v. Alta-Dena Certified Dairy*, 4 Cal. App. 4th 963 (1992)(injunction pursuant to B.P.C. §§17200 & 17500 barring false and misleading statements and requiring seller to provide warning as remedy for past misrepresentation is proper). It is well established that abortion providers may be required to provide truthful and accurate information in connection with their provision of abortion services. *See Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 112 S.Ct. 2791 (1992)(informed consent disclosure requirements are constitutional). Of necessity, Bernardo relied upon these longstanding legal principles when she determined whether she could advance her claims against PPFA and assessed–to the best of her ability–whether she had a probability of success on the merits.

Bernardo's Showing That PPFA's Speech Is Commercial Speech Actionable Pursuant To B.P.C. §§17200&17500.

Benardo began her effort to demonstrate a "probability of success" by demonstrating that PPFA makes its services available to consumers *via* websites, and that immediately

upon arriving at the PPFA website access is provided to "health info" and information about PPFA clinics, including PPSDRC. Ex. 10, pp. 1, 3.[1] For those interested in abortion services, PPFA asks "where can I get a surgical abortion?" and then answers "Contact Planned Parenthood at 1-800 230 PLAN...." Ex. 10, p. 10. Access to the location of health centers and to sexual health information is provided on virtually every page, including the pages containing PPFA's statements about the safety of abortion, the safety of abortion vis a vis childbirth, and the scientific and medical evidence addressing the link between induced abortion and breast cancer. Ex. 10, pp. 7, 9-10, 16-18, 25-32, 33-38. PPFA clinic locations are listed by zip code. Ex. 10, p. 6, 11, 13, 23.

PPFA's site provides the number for each of its clinics, gives pricing information and states that "[h]ospitals generally cost more." Ex. 10, p. 10. PPSDRC's site gives payment information, clinic locations, and allows the visitor to make an appointment. Ex. 10, p. 21-23, 37. Virtually every webpage gives a toll free number, "1-800-230-PLAN", which the visitor can use "to schedule an appointment at the nearest Planned Parenthood Center." See e.g. Ex. 10, p 89, 10, 11, 13, 33, 36; The site for PPSDRC includes its local number and the same 1-800 number given on PPFA's site. Id at p. 14-15, 22-23.

Bernardo's evidence demonstrated that PPFA "supported a nationwide, toll-free appointment line...which automatically connects callers to their nearest Planned Parenthood center...[and] allows affiliates to pool their advertising

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[1] Exhibits 10-14 which Bernardo filed in the Superior Court have been included in the Appendix at pages 112a-523a. They are cited here by the Bates-stamp numbers used in the state court record, which are given in the Appendix.

resources....Calls to the line, which was implemented in 1993, averaged 4,500...per month." Ex. 11, p. 16. By 1998 "an average of more than 14,000 callers used the line every month...." Ex. 11, p. 26, 30, 32. PPFA also engages in marketing research "used to develop a unified advertising campaign that can be adapted for use by all affiliates." Ex. 11, p. 32. Clinics are rewarded for "[m]arketing effort that result in an increased number of clients," "significant expansion of teen patient load," and "successful media/marketing campaign targeted to youth." Ex. 11, pp. 42-44.

PPFA's role in the delivery of services via "Planned Parenthood" clinics follows from its function as national office for the "federation" of affiliated clinics that "functions on behalf of the [a]ffiliates...for policy and program initiatives...administers the standards mandated by the [m]embership" and "supports the work of the [a]ffiliates in providing leadership, support, and services to facilitate the delivery of reproductive health care...." Ex. 11, pp. 47, 91. "The standards of affiliation are established by the affiliate membership....for the protection of...affiliates, and the integrity of the Planned Parenthood service mark." Ex. 11, p. 5; Clerk's Transcript DO40186 ("C.T.") p. 380 (emphasis added). Affiliates must comply with PPFA's medical protocols to remain affiliated. Ex. 11, pp. 117-18. Compliance is monitored via on-site visits. Ex. 11, pp. 9-10. The right to use PPFA's "trademark" ends upon disaffiliation. Ex. 11, pp. 115, 123, 126 (emphasis added). "PPFA establishes and monitors medical guidelines and protocols to maintain affiliates' outstanding reputation for high-quality medical care." Ex. 11, pp. 13-14; Id pp. 16, 22, 24 26.

PPFA staffs, supplies, and insures its affiliated health centers. PPFA recruits employees for affiliates. Ex. 11, p. 14. PPFA provides training to employees of affiliated clinics.

Ex. 11, pp. 22, 24, 14, 28, 32, 13. "To provide affiliates with low-cost medical supplies and contraceptives...[it] negotiated group-purchasing agreements." Ex. 11, p. 26. PPFA affiliates receive insurance coverage via a related for-profit corporation operating out of Bermuda which shares an overlapping board/common membership with PPFA. Ex. 11, pp. 111, 118, 167, 88, 34, 36, 38.

Bernardo's showing also demonstrated that this thoroughgoing marketing system produces results for PPFA and its clinics, including PPSDRC. "Each year, Planned Parenthood health centers nationwide provide high quality, affordable reproductive health care and sexual health information to more than five million women, men and teens." Ex. 10, p. 6. In the 1990's combined balance revenues were reported around $400-$500 million with clinic revenue accounting for around 35% of total revenue. Ex. 11, pp. 39-53. For the year ending June 30, 2000, combined revenues were $627 million with clinic income accounting for 36%. Ex. 11, pp. 55-56. PPSDRC is part of this nationwide system and produces revenue. Ex. 11, p. 16, 33-39. PPFA receives revenue from its affiliated member clinics in connection with the use of its mark, as well as its marketing, administration, monitoring, recruiting, training, and insuring functions. Ex. 11, pp. 34, 92, 63, 65, 68, 79-80, 109 127-28. In short, PPFA works hand–in–glove with its clinics, including PPSDRC, for the purpose of delivering abortion services for payment.

Bernardo's Showing That PPFA' Statements Are False And Misleading.

Bernardo's showing also demonstrated that PPFA makes false and misleading statements of fact about abortion services. In addition to the Declaration of Dr. Joel Brind, PhD, filed with her Complaint, and declarations from the

plaintiffs, Bernardo provided declarations from five medical doctors, one from each medical speciality required to address the increased risk of breast cancer caused by induced abortion over the life of a woman (ob-gyn, pediatrics, family practice, oncology, and breast surgery). More specifically, Bernardo provided expert testimony from the following doctors: (1) Dr. Elizabeth Shadigian, a board certified ob-gyn engaged in clinical practice and teaching at the University of Michigan, who has conducted her own (as yet unpublished) meta-analysis of the literature addressing the link between induced abortion and increased risk of breast cancer; (2) Dr. Jane Anderson, a board certified pediatrician teaching at the University of California, San Francisco; (3) Dr. Chris Kahlenborn, a physician of internal medicine engaged in clinical practice and epidemiological research who has published on the ABC-link; (4) Dr. Jose Bufill, a medical doctor practicing medical oncology, a Clinical Assistant Professor of Medicine at Indiana University, and Director of Medical Education at Saint Joseph Medical Center; and (5) Dr. Angela LanFranchi, a surgeon specializing in breast surgery and a clinical professor at Robert Woods Johnson Medical School. C.T., pp. 249-256, Ex. 7, ¶¶ 2-14, 16-22; C.T. pp. 311-12, 314-325, Ex. 9, ¶¶ 2-6, 8-38; C.T. 207-213, 219-226, Ex. 5, ¶¶2-15, 30-50; C.T. pp. 288-99, Ex. 8, ¶¶52-73; C.T. pp. 235-42, 246, Ex. 6,¶¶2-19, ¶34.

Bernardo's showing also demonstrated that PPFA makes false and misleading statements of fact about the risk and safety of abortion services and the scientific studies addressing the link between induced abortion and breast cancer. For example, PPFA states: "In the first 20 weeks, abortion is much safer than giving birth," explaining that "Death occurs in 1 of 100,000 abortions. Childbirth carries seven times more risk." Ex. 10, p. 15. PPFA also states that: "Today, abortion is one of the most commonly performed clinical

procedures, and the current death rate from abortion at all stages of gestation is 0.6 per 100,000 procedures. This is eleven times safer than carrying a pregnancy to term and nearly twice as safe as a penicillin injection." Ex. 10, p. 17. PPSDRC states that: "Today, abortion is about twice as safe as having your tonsils out and is safer than childbirth. In fact, abortion is 11 times safer than giving birth up to the 18th week of pregnancy." Ex. 10, p. 21. Bernardo's showing demonstrated that these statements are false because induced abortion does cause breast cancer and, as a result, abortion is not safer than childbirth. See e.g. C.T. 249-53, Ex. 7, ¶¶ 2-14, 16-22; C.T. pp. 311-312, 314-18, Ex. 9, ¶¶ 2-6, 8-17; C.T. p. 220, Ex. 5, ¶¶ 31-33; C.T. pp. 288-93, Ex. 8, ¶¶52-60, 71-74; C.T. pp. 236-37, 246, Ex. 6,¶¶ 3, 34.

Bernardo's showing also demonstrated that PPFA's and PPSDRC's statements relating to the "protective effect," are misleading–indeed unintelligible and self-contradictory. PPFA answers the question, "Does abortion cause breast cancer?" by stating, "No. But abortion does not offer the same protection against breast cancer as a full term pregnancy." Ex. 10, p. 35 (emphasis added). PPSDRC answers the same question by stating, "No, but abortion does not offer the protection against breast cancer that having several pregnancies does." Ex. 10, p. 37-38 (emphasis added). Bernardo demonstrated that these statements are false and misleading because, *inter alia*, an induced abortion offers no protection against breast cancer (never mind the "same" protection) and it is one first full term pregnancy (not any "full pregnancy" and not "several pregnancies") that provides the protection against breast cancer which is so valuable to a woman. C.T. pp. 16-17, Ex. 12, ¶¶17r & 17s; C.T. pp. 324-25, Ex. 9, ¶¶ 36-37.

Bernardo's showing also demonstrated that PPFA's statements concerning the safety of abortion and the safety of

abortion *vis a vis* childbirth are false and misleading because they ignore the "independent effect" that an induced abortion has in increasing breast cancer risk (i.e. in addition to the increased risk caused by abrogation of the protective effect), an effect established by the overwhelming preponderance of the scientific/medical evidence C.T. pp. 250-52, Ex. 7, ¶¶ 5-10; C.T. pp. 208-10, Ex. 5, ¶¶ 5-10; C.T. pp. 236-38, Ex. 6, ¶¶3-9; C.T. pp. 289-92, Ex. 8, ¶¶ 53-58; C.T. pp. 314-16, Ex. 9, ¶¶ 9-11. Indeed, *The Breast*, an authoritative medical text that examines evidence concerning risk of breast cancer, also recognizes that induced abortion increases breast cancer risk. C.T. p. 257-58, Ex. 7, ¶27; C.T. p. 213, Ex. 5, ¶17; C.T. pp. 294-95, Ex. 8, ¶63.

Finally, Bernardo's showing demonstrates that PPFA makes false and misleading statements of fact about the findings, content, and weight of the scientific evidence addressing the link between induced abortion and breast cancer. For example, PPFA actually misrepresents the conclusions of the well known Dalings study (stating that Daling described her findings as inconclusive when, in fact, the Dalings' study found significant overall increased risk) and, further, representing that Daling's findings were susceptible to reporting bias, which was tested for and ruled out. C.T. pp. 187-89, Ex. 4, ¶¶ 27-29; Ex. 10, p. 27. PPFA misrepresents the findings of Brind's meta-analysis (as finding a slight increase in risk when, in fact, the study found substantial [30%] increased risk); C.T. pp. 187-89, Ex. 4, ¶¶ 27-29; Ex. 10, p. 27; see also C.T. pp. 252-53, Ex. 7, ¶¶ 12-13 ("meta-analysis" more powerful than any individual study). Indeed, PPFA's repeatedly makes false and misleading statements of fact about the findings, content, flaws, and weight of the scientific evidence addressing the link between induced abortion and increased risk of breast cancer in numerous ways, creating a totally false and

misleading impression about the scientific evidence relating to the link between induced abortion and breast cancer. See C.T. pp. 181-190, Ex. 4, pp. 7-16, ¶¶12-38; Ex. 10, pp. 25-29; C.T. pp. 251, , 253, 255-56, Ex. 7, ¶¶ 9, 14, 20-22; C.T. pp. 316-325, Ex. 9, ¶¶ 12-37; C.T. pp. 207-13, 219-36; Ex. 5, ¶¶2-15, 30-50; C.T. pp. 288-99, Ex. 8, ¶¶52-74; C.T. pp. 235-42, 246, Ex. 6,¶¶2-19, ¶34. Critically, Bernardo's claims address false and misleading statements of fact about the scientific evidence, not statements of opinion. Indeed, PPFA's false and misleading statements are made in "fact sheets". See e.g. Ex 10, pp. 7, 16, 25. And PPFA has said that that the disclosure of the information sought by Bernardo on this risk factor is "not part of the counseling at Planned Parenthood health centers...." Response (in DO40186) at p. 5; see also Ex. 10 at pp. 35, 37-38, 29-30. Bernardo argued that this evidence was plainly sufficient to satisfy her burden under C.C.P. §425.16 such that the PPFA' motion should be denied; and she further argued that striking her claims pursuant to C.C.P. §425.16 would violate her constitutional right to petition and access the courts, free speech, due process, and equal protection. C.T. pp. 146-65.

Disposition Of Bernardo's Claims By California Courts.

On March 18, 2001, the Superior Court for San Diego County, the Hon. Ronald S. Prager presiding, granted PPFA motion to strike. C.T. pp. 467. The Superior Court found that Bernardo had failed to make the prima facie showing of probability of success needed to withstand PPFA's motion to strike because Bernardo had failed to make a showing that PPFA's statements were commercial speech, and also, that PPFA's statements consisted in false and misleading statements (and therefore unfair trade practices or false advertising) prohibited by B.P.C. §§17200 & 17500. The Superior Court ignored Bernardo's objections to the statute based on her right to petition, free speech, due process and

equal protection. Bernardo appealed this decision, and her appeal was docketed as number DO40186. C.T. (in DO40186) pp. 468-69.

By motion filed April 26, 2002, PPFA requested attorneys fees in the amount of $77,835.25 pursuant to C.C.P. § 425.16(c). C.T. pp. 468-512. Bernardo objected to the award arguing, among other things, that an award of fees under the statute would violate her constitutional rights to petition and access the courts, free speech, due process, and equal protection. C.T. pp. 520-33. By order dated June 14, 2002, The Superior Court of California, County of San Diego, the Hon. Ronald S. Prager, presiding, granted PPFA motion for attorney fees in the amount of $77, 835.24, finding the award of fees mandatory, the amount reasonable, and also, that the award of fees and costs did not violate Bernardo's constitutional rights. C.T. 548-51. On July 19, 2002, Judge Prager entered a final judgment dismissing Plaintiffs' claims and awarding attorneys fees to the PPFA in the amount of $77,835.25. C.T. pp. 552-55. Bernardo appealed the award of fees and her appeal was docketed as DO40866. C.T. 556-58.

In connection with her appeals in DO40186 & DO40866 Bernardo argued, among other things, that the order striking her claims and judgment making her liable for attorneys fees and costs pursuant to C.C.P. §425.16 violated her right to petition and access the courts, as well as her rights to Due Process and Equal Protection. Because Bernardo's claims implicated the definition of commercial speech, the California Court of Appeals stayed Bernardo's appeals pending this United State Supreme Court's decision on the merits in *Kasky v. Nike, Inc.*, 27 Cal. 4th 939 (2002), *cert. granted*, 537 U.S. 1099 (2003), *and cert. dismissed*, 539 U.S. 654 (2003). When this Court dismissed the *Nike* case the stay was lifted; and Bernardo's appeals were argued on January 12, 2004.

The Court Of Appeal, Fourth Appellate District, Division One, State of California, consolidated Bernardo's appeals for the purpose of rendering a decision and affirmed in a published opinion filed January 28, 2004. *Bernardo v. Planned Parenthood Federation of America*. App. 2a-72a The Court found that Bernardo had failed to show a probability of success on the merits of her claims that PPFA was engaged in commercial speech and made false and misleading statements in violation of B.P.C. §§17200 & 17500. App. 2a-54a. The Court of Appeal also rejected Bernardo's argument that the striking of her claims and imposition of liability for attorneys fees and costs pursuant to C.C.P. §425.16 violated her right to petition, right to Due Process, and right to Equal Protection. App. 55a-66a.

Bernardo timely filed a Petition For Review with the California Supreme Court on March 9, 2004. In her Petition she argued, among other things, that the striking of her Complaint and imposition of liability for PPFA's fees and costs pursuant to C.C.P. §425.16 violated her rights to Petition, Due Process, and Equal Protection. The California Supreme Court denied Bernardo's Petition For Review on April 14, 2004. App. at 1a.

ARGUMENT FOR REVIEW

Bernardo now petitions this Supreme Court of the United States for a writ of certiorari. This Court should grant Bernardo's Petition for two related reasons. First, the use of C.C.P. §425.16 to strike Bernardo's claims and award of costs and fees violates Bernardo's right to petition, right to Due Process, and her right to Equal Protection as defined by this United States Supreme Court such that the C.C.P. §425.16 is, therefore, inconsistent with the requirements of federal law. Second, and relatedly, the decisions by the courts of the State of California rejecting Bernardo's claim

that C.C.P. §425.16 violates these rights guaranteed to her by the United States Constitution decides important questions of federal law that must be decided by this United States Supreme Court. See S.C.R. 10(b)&(c).

Although the legal and factual bases for Bernardo's state-law claims are complex, the issues presented by her Petition are relatively simple and straightforward. Bernardo brought a claim to prevent the dissemination of false and misleading statements to the public in connection with an offer of abortion services pursuant to state statutes that authorize citizens to advance such claims. She sought nothing for herself and asked only for relief designed to ensure that the public receives truthful and accurate information about the number one cancer cause of death for middle-aged women in America. Her claims are legally and factually complex, well grounded in the governing law, and well supported by the evidence she collected before filing suit–evidence submitted to the court in response to PPFA's motion to strike.

At the time of filing it was impossible for Bernardo to predict with any certainty the resolution of the numerous and complex legal and factual issues presented by her claim–and it remains so at this time. At the time of filing it was impossible to predict with any certainty the view that any judge would take as to her probability of success on the merits–and it remains so at this time. In a very real sense the only thing that was certain about Bernardo's claims at the time she filed her Complaint was that those claims were not subjectively or objectively frivolous. It simply cannot be said that Bernardo's claims lacked arguable support in fact and law; and the uncontested evidence of record demonstrates that she has no ill-intent in filing her action as well as no personal stake in its outcome.

Thus, the question presented by Bernardo's Petition is whether Bernardo can be ordered to pay $77,835.25 (as well as additional fees and costs incurred in connection with her appeals), for filing her suit consistent with her constitutional right to petition as well as her right to Due Process and Equal Protection. The answer to that question is: No. Bernardo cannot be ordered to pay $77,835.25 (and made liable for additional costs and fees incurred in connection with an appeal), for filing a suit that is not subjectively or objectively groundless consistent with her constitutional right to petition. She cannot be fined for accessing the courts based on a "probability of success" standard that provides no meaningful notice when applied to litigation, and she cannot be penalized for accessing the courts absent a heightened showing of fault proven to a heightened evidentiary standard, consistent with her right to Due Process. Moreover, Bernardo cannot be forced to pay a fine that is assessed pursuant to a statute that discriminates between citizens based on their exercise of fundamental rights and opens the courts on different terms to different litigants consistent with her right to Equal Protection. These constitutional protections allow Bernardo to file a lawsuit without fear of a draconian penalty suffered by those who are unable to predict the inherently unpredictable. For these reasons, C.C.P. §425.16, the California statute that authorized the striking of her claims and the award of attorneys fees and costs, is unconstitutional.

I. C.C.P. §425.16 Violates Bernardo's Right To Petition.

There is no question that C.C.P. §424.16 violates Bernardo's First Amendment right to petition because it does not require a showing of subjective and objective frivolousness prior to the imposition of liability for attorneys fees and costs when claims are dismissed on the theory that they are not likely to succeed. As the California Supreme Court itself has recognized "[t]he constitutional right to

petition encompasses the basic act of filing litigation." *See e.g. Navellier v. Sletten*, 29 Cal.4th 82, 90, 52 P.3d 703, 124 Cal.Rptr.2d 530 (2002). This is especially true where, as here, the action is filed on behalf of the public; for, as this Court has recognized, litigation brought in the public interest deserves the full protection of the First Amendment because it is itself a form of expressive activity. *See e.g. NAACP v. Button*, 371 U.S. 415 (1963)(First Amendment protects rights of persons to engage in litigation to further protection of civil rights); *In Re: Edna Smith Primus*, 436 U.S. 412, 98 S.Ct. 1893 (1978)(First Amendment bars regulations impeding right of attorneys to find plaintiffs for public interest litigation).

This Court has repeatedly held that the right to petition voids laws that chill this right by imposing liability for fees and cost without requiring a showing of frivolousness as a predicate for liability. *See e.g. BE&K Construction Co. v. NLRB*, 536 U.S. 516 (2002)(employer's unsuccessful retaliatory lawsuit against unions could not serve as a basis for imposition of liability for unfair labor practices absent a showing that the lawsuit was objectively baseless); *Professional Real Estate Investors, Inc. v. Columbia Pictures Indus., Inc.* 508 U.S. 49 (1993)(barring antitrust liability for litigation because suit was both objectively and subjectively baseless); *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731 (1983) (lawsuit brought for improper motive cannot be enjoined provided it is not a sham). Indeed, as the California Supreme Court has recognized "[p]laintiffs and their attorneys are not required, on penalty of tort liability, to attempt to predict how a trier of fact will weigh the competing evidence, or to abandon their claim if they think it likely the evidence will ultimately weigh against them. They have the right to bring a claim they think unlikely to succeed so long as it is arguably meritorious." *Wilson v. Parker, Covert & Chidester*, 28 Cal.4th 811 (2002)(citations omitted); *see also Oren Royal*

Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc, 42 Cal. 3d 1157 (1986)(refusing to expand claim for abuse of process because it would impose penalties for efforts to access courts); *Pacific Gas and Electric Co. v. Bear Stearns & Co.*, 50 Cal.3d 1118 (1990)(Constitutional right to petition meant that filing of lawsuit cannot provide basis for interference with contract claim unless lawsuit was advanced without probable cause within meaning of malicious prosecution action).

Cases voiding penalties heaped on unsuccessful litigants for non-frivolous claims borrow from, and reflect, a more general First Amendment principle: the law cannot impose liability for First Amendment activity except where it requires a showing sufficient to ensure that First Amendment rights are not improperly burdened. *See e.g. New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964) (no liability for defamation regarding public figure absent showing of reckless disregard for the truth by clear and convincing evidence.); *McDonald v. Smith*, 472 U.S. 479, 105 S.Ct. 2787, 86 L.Ed.2d 384 (1985)(no tort liability for petition to President absent reckless disregard for the truth); *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982) (no personal liability for torts committed by fellow protestors absent specific intent via authorization, direction, ratification of specific tortious activity, incitement of imminent lawless action, or specific instructions to carry out violent acts or threats); *Hustler Magazine v. Falwell*, 485 U.S. 46 (1988)(no liability for emotional distress based on protected speech absent heightened showing); *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989) (invalidating statute that allowed punishment for publication of lawfully obtained truthful information where state law imposed a negligence *per se* standard for liability). Taken together these cases show that the First Amendment right to petition likewise precludes liability for

fees absent a showing that the suit is subjectively and objectively groundless.

Significantly, the liability imposed by C.C.P. §425.16 cannot be insulated from constitutional requirements by labeling the liability an award of fees to a prevailing party. There is no material difference between an award of fees under C.C.P. §425.16(c) and the award of fees as damages for malicious prosecution, abuse of process, or damages awarded for any tort; indeed, the fee award is designed to compensate defendants for the cost of defending the suit–an item of damages in any case involving harm caused by judicial process. *Conroy v. Spitzer*, (1999) 70 Cal. App. 4th 1446 (statutory award of costs and fess is designed compensate defendant for expense of responding to baseless lawsuit). Thus the fee liability created by C.C.P. §425.16, a liability for the very act of petitioning (and pre–filing investigation) not the conduct of litigation, is no different–and no less illicit–than any other form of liability imposed for activity protected by the First Amendment.

Bernardo's case demonstrates the improper burden on petitioning activity created by C.C.P. §425.16. There is no question that Bernardo's claim is not frivolous–either objectively or subjectively. Under these circumstances, the dismissal of Bernardo's claims and imposition of liability for fees and costs pursuant to C.C.P. §425.16 violates her First Amendment right to petition because it is nothing less than a strict liability penalty for petitioning. The cases holding that federal law cannot impose liability for cost and fees upon unsuccessful litigants absent a showing of frivolousness do so precisely because such awards function as a penalty that would eviscerate the right to petition. California's courts have chosen to ignore the true thrust of these decisions and the very substance of the right to petition. *See, e.g., Equilon Enterprises, LLC v. Consumer Cause, Inc.*, 29 Cal.4th 53,

63, 52 P.3d 685, 691,124 Cal.Rptr.2d 507, 515 (2002); *Navellier v. Sletten*, 29 Cal.4th 82, 88-89, 52 P.3d 703, 124 Cal.Rptr.2d 530 (2002). Put simply, the disposition of Bernardo's claims by the courts of the State of California demonstrates that C.C.P. §425.16, as written and applied by California Courts, does not require a showing of frivolousness prior to an award of attorneys fees under the statute. For this reason alone C.C.P. §425.16 is unconstitutional.

II. C.C.P. §425.16 Violates Bernardo's Right To Due Process Of Law.

C.C.P. §425.16 also violates Bernardo's Due Process rights for a number of related reasons. First, the "probability of success on the merits" standard imposed by the statute is unconstitutionally vague. The reason is simple: no one can predict with any certainty how a given judge will view the probability of success of any litigation at the outset of any legal proceeding. This vagueness is itself a fatal defect because it makes C.C.P. §425.16 operate as a fine imposed on the effort to access the courts based on a standard that fails to provide reasonable notice of the conduct that will produce liability. But the inherent vagueness in this standard is compounded by failure to require the heightened showing needed to impose damages in connection with activity that implicates fundamental rights–including First Amendment rights, (e.g., a showing of fault akin to reckless disregard demonstrated to a heightened evidentiary standard, e.g., clear and convincing evidence). Each of these defects standing alone make C.C.P. §425.16 violate Due Process.

The statutes most egregious violation of Due Process is the absence of a meaningful standard for liability. It is fundamental that Due Process requires that a statute provide a person of ordinary intelligence with fair notice of the conduct that will produce a sanction. *See e.g., City of*

Chicago v. Morales, 527 U.S. 41 (1999)(anti-loitering ordinance void where it failed to provide fair notice of the conduct prohibited); *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972) (vagrancy law void where it failed to give person of ordinary intelligence fair notice of conduct that is forbidden); *see also City of Glendale v. George*, 208 Cal. App.3d 1394, 256 Cal. Rptr. 742 (1989)(Due Process requires law to give person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.). Likewise, there is no question that Due Process prohibits financial restrictions on the right to access courts. *See e.g. M.L.B. v. S.L.J.*, 519 U.S. 102 (1996)(state statute conditioning right to appeal on ability to pay costs violated Due Process and Equal Protection); *Zablocki v. Redhail*, 434 U.S. 374 (1978)(statute conditioning access to court for purpose of marriage on payment of child support violated Due Process); *Bodie v. Connecticut*, 401 U.S. 371 (1971)(law limiting court access to those who could pay fees deprived violated Due Process); *see also Degen v. United States*, 517 U.S. 820 (1996)(barring use of "disentitlement" doctrine to strip litigant of right to access courts to defend title to property based on refusal to submit to criminal prosecution); *California Teachers Association v. State of California*, 20 Cal. 4th 327 (1999)(law imposing costs upon employees who unsuccessfully challenge their termination or suspension violated Due Process).

C.C.P. §425.16 violates both these fundamental principles because it fails to provide fair notice of liability and, by the same token, conditions the right to access the courts on the ability to risk a draconian fine. The "reasonable probability of success on the merits" standard imposed by C.C.P. §425.16 is meaningless in practice because it gives litigants no meaningful notice concerning which petitioning activity is prohibited by the statute and will result in liability. Again,

the courts of the State of California have recognized that litigants are "not required, on penalty of tort liability, to attempt to predict how a trier of fact will weigh the competing evidence, or to abandon their claim if they think it likely the evidence will ultimately weigh against them. They have the right to bring a claim they think unlikely to succeed so long as it is arguably meritorious." *Wilson v. Parker, Covert & Chidester*, 28 Cal.4th 811 (2002)(citations omitted). Similarly, California courts have recognized that many claims fail due to the inherent uncertainty of the litigation process or the simple failure of proof quite apart from their merits. *See e.g. Wolfgram v. Wells Fargo Bank*, (1997) 53 Cal. App. 4th 43, 58 ("As a matter of common experience even many meritorious suits fail, due to the vagaries of the trial process if nothing else. Many more colorable suits fail, either due to pretrial disposition or failure to persuade the trier of fact."). Yet California's courts have steadfastly refused to recognize that this incontrovertible reality makes the "probability of success" standard an unconstitutional burden upon the right to access the courts without fear of liability. *See e.g. Equilon Enterprises, LLC v. Consumer Cause, Inc.*, 29 Cal.4th 53 (2002).

Notwithstanding the rhetoric of California's courts, C.C.P. §425.16's failure to provide reasonable notice of the conduct that will produce liability strips Bernardo of her liberty to access the courts–and deprives her of her property–in violation of Bernardo's right to Due Process of law. This case is a perfect example of the wholesale disregard for Due Process authorized by C.C.P. §425.16. Bernardo's claim has manifest legal and factual merit. She has evidence that PPFA's statements are false and misleading–and made to the public in connection with the offer of abortion services such that PPFA has violated California law. While Bernardo could–and did–collect evidence to substantiate her

claims, there is simply no way for her to predict with any reasonable certainty the view that any given judge would take of her probability of succeeding on the numerous factual and legal issues raised by her claims. Thus, the net result of the standard imposed by C.C.P. §425.16 is to condition Bernardo's ability to access the courts on her ability to predict the inherently unpredictable–all under pain of a fine in the form of attorney fees. In short, C.C.P. §425.16 is unconstitutional because it conditions her right to access the courts–and subjects her to a risk of draconian penalties–based on a standard that fails to provide reasonable notice concerning the type of conduct that will result in liability.

But C.C.P. §425.16 also violates Bernardo's right to Due Process for an additional reason: it does not include the heightened evidentiary showing and heightened burden of proof needed to impose liability in connection with activity protected by the First Amendment. It is fundamental that Due Process requires heightened protections based on the importance of the interest implicated by a given regulation, and Due Process requirements are more rigorous where the interest protected are more important. *See e.g. Santosky v. Kramer*, 455 U.S. 745, 102 S.Ct. 1388 (1982)(clear and convincing standard required to sever parental relationship); *Troxel v. Granville*, 530 U.S. 57 (2000)(Due Process protects natural parents relationship with child and does more than require process but requires heightened protection for that fundamental interest). With respect to liability for the exercise of Bernardo's right to access the courts these cases converge with those addressing burdens on First Amendment activity insofar as they recognize the need for rigorous restraints on laws imposing liability with respect to fundamental liberties. In all these cases, courts have barred efforts to impose liability for conduct of the kind that generally receives constitutional protection absent a

heightened showing of fault (e.g. reckless disregard for the truth) which satisfies a heightened evidentiary standard (e.g. clear and convincing evidence).

Taken together these cases demonstrate that Due Process protects Bernardo's interest in accessing the courts–and retaining her property–absent a standard that limits liability to a showing of fault akin to reckless disregard proven by clear and convincing evidence. In defiance of these principles, C.C.P. §425.16 exposes citizens to liability based on a vague standard that requires no finding of fault and can be satisfied by a mere preponderance of the evidence. In effect, it is a strict liability penalty for failing to predict a court's assessment of a litigant's probability of success. C.C.P. §425.16 violates Due Process precisely because it does not contain the procedural safeguards needed to impose liability for the exercise of fundamental rights.

In short, the "probability of success" standard created by C.C.P. §425.16 conditions Bernardo's right to access the courts–and retain her property–on her ability to satisfy a standard that fails to provide reasonable notice of the conduct that will produce liability. The statute's failure to provide reasonable notice is exacerbated by its imposition of liability for protected activity without the heightened showing of fault and higher burden of proof needed to ensure that the statute does not intrude upon the exercise of her right to access the courts. For these reasons, C.C.P. §425.16 violates Bernardo's Due Process rights.

III. C.C.P. §425.16 Violates Bernardo's Right To The Equal Protection Of Law.

The dismissal of Bernardo's claims and imposition of liability for fees and costs pursuant to C.C.P. §425.16 also stripped Bernardo of her right to Equal Protection of the law. The statute discriminates between litigants–and exposes them

to different liability for fees and costs–based on the nature of their First Amendment activity and status as plaintiff or defendant.

California's C.C.P. §425.16 violates Bernardo's right to the Equal Protection of the law because it violates the fundamental rule that government is not free to discriminate between citizens based their expressive activity. The statutory language and purpose indicate that the statute and its attorneys fee provision are designed to favor a defendant's First Amendment rights over a plaintiff's First Amendment right to petition. C.C.P. §425.16(b)(1). By its terms the defendants can avail themselves of the statute if it can be shown that the plaintiff's cause of action arises from activity arguably protected by the First Amendment. C.C.P. §425.16(b)(1).

The statute then exacerbates this discrimination, which provides a special defense for defendants against claims arising from First Amendment activity (against plaintiffs engaged in First Amendment activity), by making fees mandatory where a defendant prevails while allowing plaintiffs to recover only upon a showing of frivolousness. *See* C.C.P. §425.16(c). In this regard, it must be noted that the statute is not a true fee–shifting or loser pays rule; it favors defendants that are plaintiffs on a motion to strike over plaintiffs who are defendants on a motion to strike under C.C.P. §425.16. The plaintiff is liable for mandatory fees if the defendant prevails without any showing of fault; but defendants are only liable for fees if it can be shown that the defendant's motion to strike is frivolous within the meaning of C.C.P. §128.5. *See* C.C.P. §425.16(c).

In these two related ways C.C.P. §425.16 violates the fundamental rule that government is not free to discriminate between citizens based their expressive activity. For one thing, this invidious discrimination between the exercise of

fundamental rights is plainly perverse because litigation, particularly litigation brought on behalf of the public, is itself expressive activity of the highest order. *See e.g. NAACP v. Button*, 371 U.S. 415 (1963)(First Amendment protects rights of persons to engage in litigation to further protection of civil rights); *In Re: Edna Smith Primus*, 436 U.S. 412 (1978)(First Amendment bars regulations impeding right of attorneys to find plaintiffs for public interest litigation). Thus the statute imposes an impermissible regulation based on whether a plaintiff's complaint–itself activity protected by the First Amendment–complains about activity that is arguably protected by the First Amendment.

In this way C.C.P. §425.16 demonstrates a wholly illicit discrimination between fundamental rights, in effect making the courts available to different parties, on different terms, depending upon the nature of their petitioning activity and their status as plaintiff or defendant. It is fundamental that the Equal Protection clause prohibits the government from discriminating between exercises of fundamental rights based upon the nature of the expressive conduct or the nature of the speaker. *See, e.g. City of Chicago v. Mosley*, 408 U.S. 92, 92 S.Ct. 2286 (1972)(ordinance prohibiting all picketing but peaceful labor picketing violated equal protection by discriminating among persons based on nature of their First Amendment activity); *Carey v. Brown*, 447 U.S. 455 (1980)(invalidating ordinance that discriminated between residential and labor picketing); *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992)(ordinance imposing special restrictions on citizens engaged in disfavored First Amendment activity involving hate speech void); *see also Walker v. Kiousis*, 93 Cal. App. 4th 1432, 114 Cal. Rptr. 2d 69 (2001)(ordinance providing special cause of action for defamation to public officers violates Equal Protection, which requires exacting

scrutiny of discrimination between speech even where it is of a kind which might be barred entirely as a class).

These cases show that C.C.P. §425.16 violates Bernardo's right to Equal Protection precisely because the statute discriminates against litigants based on the exercise of fundamental rights. By favoring defendants who have engaged in activity arguably protected by the First Amendment over plaintiffs arguably exercising their First Amendment right to petition (with respect to the defendant's arguable abuse of First Amendment rights) C.C.P. §425.16, like the ordinances struck down in *Mosley*, and *Carey*, *supra*, is akin to a license or permitting scheme that discriminates based on the nature of expressive activity. Like the statute at issue in *R.A.V.*, *supra*, C.C.P. §425.16 turns on whether the plaintiff complains about activity that California seeks to prefer over the plaintiff's right to petition. Reduced to its essence, C.C.P. §425.16 creates an impermissible classification by providing a special defense–and allocating the risk of fees–in a way that burdens the plaintiff's fundamental right to petition. The result is to burden the plaintiff's exercise of the fundamental right to petition–and favor the defendant's fundamental right to speech or petition–by creating a risk to plaintiffs not born by their opponents in litigation. Seen in this light it is evident that C.C.P. §425.16 amounts to nothing more than an arbitrary status-based classification turning on nothing more than status as plaintiff or defendant. For these reasons, C.C.P. §425.16 violates Bernardo's right to Equal Protection.

CONCLUSION

Although the legal and factual bases for Bernardo's state-law claims are complex, the question presented by Bernardo's Petition is straightforward. Reduced to its essence the question presented by her Petition is whether Bernardo can be

ordered to pay $77,835.25 (as well as additional fees and costs incurred in connection with her appeals), for filing her suit consistent with her constitutional right to petition as well as her right to Due Process and Equal Protection. For the reasons stated herein, Bernardo submits that the answer to this question is: No. These constitutional protections allow Bernardo to file a lawsuit without fear of a draconian penalty suffered by those who are unable to predict the inherently unpredictable. For these reasons, C.C.P. §425.16, the California statute that authorized the striking of her claims and the award of attorneys fees and costs, is unconstitutional. And for these reasons Bernardo's Petition should be granted.

Respectfully submitted,

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APPENDIX A

Court of Appeal, Fourth Appellate District, Division One -
Nos. D040186/D040866
S123182

IN THE SUPREME COURT OF CALIFORNIA
En Banc

[Filed April 14, 2004]

AGNES BERNARDO et al., Plaintiffs and Appellants,	)
v.	)
PLANNED PARENTHOOD FEDERATION OF AMERICA, et al., Defendants and Respondents.	)

Petition for review DENIED.

GEORGE
Chief Justice

APPENDIX B

**COURT OF APPEAL OF CALIFORNIA,
FOURTH APPELLATE DISTRICT,
DIVISION ONE**

D040186 and D040866

[Filed January 28, 2004]

AGNES BERNARDO et al.,	)
Plaintiffs and Appellants,	)
	)
v.	)
	)
PLANNED PARENTHOOD	)
FEDERATION OF AMERICA et al.,	)
Defendants and Respondents.	)
	)

On Appeal From
Superior Court of San Diego County
No. GIC772552
Ronald S. Prager, Judge

JUDGES: NARES, Acting P. J.; McIntyre and O'Rourke, JJ., concurred.

OPINION

NARES, Acting P. J.--Agnes Bernardo, Pamela Colip and Saundra Duffy-Hawkins (collectively Bernardo) brought suit for injunctive relief against Planned Parenthood Federation of America (PPFA) and Planned Parenthood of San Diego and Riverside Counties (PPSDRC) (together Planned Parenthood) under California's Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) and False Advertising Law (Bus. & Prof. Code, § 17500 et seq.). Bernardo alleged that PPFA's and PPSDRC's Internet Web sites (<http://www.plannedparenthood.org.html> and <http://www.planned.org.html>, respectively) contained "unlawful, unfair, confusing, and misleading statements/advertisements" that caused women to make critical health care decisions without full, complete, and accurate information about (1) the safety of abortion, (2) the safety of abortion vis- [agrave] -vis childbirth, and (3) the scientific/medical literature that Bernardo claims establishes a link between induced abortion and breast cancer (hereafter sometimes referred to as the ABC link).

Bernardo sought two types of injunctive relief: (1) an injunction restraining Planned Parenthood from publishing its statements that abortion is safe or safer than childbirth and its position that the weight of credible medical research has failed to establish a link between induced abortion and breast cancer; and (2) a mandatory injunction requiring Planned Parenthood to provide to all of its former and prospective abortion patients information supporting Bernardo's position that medical research has established the existence of the claimed ABC link.

Planned Parenthood filed a special motion to strike

Bernardo's complaint under Code of Civil Procedure[1] section 425.16, California's anti-SLAPP (strategic lawsuits against public participation) statute (hereafter referred to as section 425.16 or the anti-SLAPP statute), which was specifically enacted to provide both a summary disposition and mandatory attorney fees and costs to prevailing defendants in such actions.[2] Planned Parenthood argued that Bernardo's action was a strategic lawsuit against public participation (SLAPP) prohibited by California's anti-SLAPP statute.

The court found that Bernardo's lawsuit was a SLAPP, granted Planned Parenthood's motion, and dismissed the action. The court awarded reasonable attorney fees to Planned Parenthood in the amount of $77,835.25 under the mandatory attorney fees provision of section 425.16, subdivision (c) (hereafter section 425.16(c)).

Bernardo has filed two appeals, which have been consolidated for purposes of disposition. In case No. D040186, Bernardo appeals the court's order dismissing her action as a SLAPP under section 425.16. Bernardo contends that Planned Parenthood's Web site statements constitute commercial speech that may properly be regulated under Business and Professions Code sections 17200 and 17500 and that the court erred when it granted Planned Parenthood's section 425.16 motion to strike because it failed to properly apply the "minimal merit" screening standard provided by the anti-SLAPP statute. In the alternative, Bernardo contends that if the court correctly applied section 425.16, that statute is

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[1] All subsequent statutory references are to the Code of Civil Procedure unless otherwise specified.

[2] *Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400, 1404 [103 Cal. Rptr. 2d 174] (Dowling).

unconstitutional because (1) it impermissibly chills Bernardo's First Amendment right to petition the government for redress of grievances, which encompasses the right to access the courts by filing litigation, and (2) it violates Bernardo's due process rights because "the 'reasonable probability of success on the merits' standard [under section 425.16] is meaningless in practice."

In her second appeal, case No. D040866, Bernardo seeks reversal of the court's order awarding attorney fees to Planned Parenthood in the amount of $77,835.25 under section 425.16(c). Bernardo contends that section 425.16(c) is unconstitutional on its face and as applied, asserting the attorney fees award levied against her is a "fine," a "draconian penalty" or "strict liability penalty," and an "item of damages" that violates her constitutional rights to petition the government for redress of grievances and to access the courts by filing litigation, as well as her constitutional rights to due process and equal protection of the laws. We reject all of Bernardo's contentions. Accordingly, we affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

A. *PPFA and PPSDRC*

PPFA is a national nonprofit charitable organization. According to its published mission statement, PPFA believes in "the fundamental right of each individual ... to manage his or her fertility." It also believes in voluntary "reproductive self-determination," and preservation of an individual's right to privacy. Based on these beliefs, PPFA's mission is to (1) "provide comprehensive reproductive and complementary health care services in settings which preserve and protect the essential privacy and rights of each individual"; (2) "advocate public policies which guarantee these rights and ensure access

to such services"; (3) "provide educational programs which enhance understanding of individual and social implications of human sexuality"; and (4) "promote research and the advancement of technology in reproductive health care and encourage understanding of their inherent bioethical, behavioral, and social implications."

PPFA has also published numerous policy statements indicating that it is the policy of PPFA to "assure that all individuals have the freedom to make reproductive decisions"; to promote "access to information and services related to sexuality, reproduction, methods of contraception, fertility control, and parenthood"; "ensure that women have the right to seek and obtain medically safe, legal abortions under dignified conditions and at reasonable cost"; provide "information on the nature, consequences, and risks of the [abortion] procedure, and counseling on the alternatives available to women, so as to assure an informed and responsible decision concerning the continuation or termination of pregnancy"; "support[] a range of activities designed to reduce adolescent pregnancy and childbearing"; and "advance understanding of the interrelationship between population growth and the quality of life."

PPFA does not itself provide health care services. However, its 127 member affiliates do provide such services annually to nearly 4 million people at 875 clinics. In 1999, those clinics served communities in the District of Columbia and every state except Hawaii, North Dakota and Mississippi. The clinics (hereafter also referred to as health centers or Planned Parenthood centers) adhere to national health standards and provide comprehensive reproductive health care services, including pregnancy tests, birth control and counseling, testing and treatment for sexually transmitted

infections, and breast examinations. Some of PPFA's affiliates, including PPSDRC, provide abortion services.

The Planned Parenthood centers also provide educational programs in a variety of settings, from universities and social service agencies to religious institutions and civic organizations. The programs focus on numerous topics, such as teenage pregnancy and puberty education, contraception and family planning, sexually transmitted infections, parent-child communication, women's health, and sexual orientation.

In the 1990's, PPFA reported total annual revenues of around $400 to $500 million. For the year ending June 30, 2000, total revenues were $627 million, with clinic revenue accounting for 35 percent.

B. *PPFA's Web site and "Fact Sheets"*

PPFA maintains an Internet Web site (PPFA's Web site) at <http://www.plannedparenthood.org.html>. PPFA assists the public in contacting its affiliates' health centers by providing on its Web site an interactive dialogue box in which visitors can type in their zip codes and be linked to the Web sites of the health centers closest to them. Once the visitor to PPFA's Web site has been linked to the Web site of a PPFA affiliate, such as PPSDRC, he or she may access a wide array of information on public affairs and health issues, as well as information about specific services the affiliate provides. PPFA's Web site also provides a toll-free telephone number that the Web site visitor may call to ask medical questions or to schedule an appointment with "the nearest Planned Parenthood center."

PPFA publishes on its Web site various "fact sheets" on reproductive health and public affairs issues, including four

containing statements that Bernardo sought to enjoin in this matter: (1) "Anti-choice Claims About Abortion and Breast Cancer" (the Anti-Choice Claims Web page); (2) "Choosing Abortion-Questions and Answers" (the Choosing Abortion Web page); (3) "Surgical Abortion-Questions & Answers" (the Surgical Abortion Web page); and (4) "Medical and Social Health Benefits Since Abortion Was Made Legal in the U.S" (the Medical and Social Health Benefits Web page).

PPFA's Anti-Choice Claims Web page stated PPFA's position that the ABC link is a "theory [that] has not been borne out by research," and the principal promoters of this theory oppose abortion. It also explained that "[t]he theory linking pregnancy termination and breast cancer is based on the hormonal disruption that occurs when a woman's pregnancy is interrupted. Pregnancy initiates a surge of sex hormones (estrogen, progesterone, and prolactin), which leads to differentiation of the cells in the breast glands in preparation for lactation. ... Adherents of this theory claim that interruption of the first trimester of a first pregnancy causes a cessation of cell differentiation that may result in a subsequent increase in the risk of cancerous growth in these tissues." The Web page also explained the role of a first full-term pregnancy in reducing the long-term risk of breast cancer (hereafter the "protective effect"):

> "While researchers do not know what causes breast cancer, reproductive factors have been associated with risk for the disease since the 17th century, when breast cancer was noted to be more prevalent among nuns. It is known that *having a full-term pregnancy early in a woman's childbearing years is protective against breast cancer* ...." (Italics added.)

The Anti-Choice Claims Web page also contained a review of some of the many studies of the alleged ABC link published during the previous 20 years, including studies that support Bernardo's position that such a link exists. For example, the page stated:

> "In 1996, Joel [L.] Brind[, Ph.D.] and his colleagues published a meta-analysis[3] of 28 published reports describing 23 studies on induced abortion and breast cancer. Based on these studies, the authors calculated that induced abortion places women at a slightly increased risk for developing breast cancer."[4]

The Web page also noted that a published 1994 study of 845 women in the State of Washington found that "among women who had been pregnant at least once, the risk of breast cancer in those who had experienced an induced abortion was 50 percent higher than among other women."[5]

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[3] The Oxford English Dictionary Online (OED Online) defines "meta-analysis" as "[a]nalysis of data from a number of independent studies of the same subject (published or unpublished), esp. in order to determine overall trends and significance." (OED Online (2003) <http://dictionary.oed.com/cgi/entry/00307098?.html> [as of Jan. 1, 2004].)

[4] In the "Works Cited" portion of the Anti-Choice Claims Web page, PPFA provided the following citation: "Brind, Joel, et al. (1996). 'Induced Abortion as an Independent Risk Factor for Breast Cancer: A Comprehensive Review and Meta-Analysis.' *Journal of Epidemiology and Community Health*, 50, 481-496."

[5] In the "Works Cited" portion of the Anti-Choice Claims Web page, PPFA cited: "Daling, Janet R., et al. (1994). 'Risk of Breast Cancer Among Young Women: Relationship to Induced Abortion.' *Journal of the National Cancer Institute*, 86(21), 1584-1592."

The Anti-Choice Claims Web page reviewed other studies that support PPFA's position on the ABC link issue, such as a study of 1.5 million women, published in 1997 in the *New England Journal of Medicine*, which PPFA asserted found no overall connection between abortion and breast cancer.[6] It also cited a 20-year study of 49,000 women in Sweden, published in 1989, which PPFA stated found no indication of an overall risk of breast cancer after an induced abortion in the first trimester of pregnancy.[7]

PPFA's Anti-Choice Claims Web page also discussed research concerning various factors that can render a study of the ABC link unreliable and asserted that "[c]ancer researchers at the National Cancer Institute, the American Cancer Society, and major universities say that the most reliable studies show no increased risk, and they consider the entire body of research inconclusive." The Web page concluded with a "Works Cited" bibliography that cited 32 published studies on the ABC link issue, including Brind's meta-analysis and others that support Bernardo's position on the ABC link.

In its Choosing Abortion Web page, PPFA answered the question "Does abortion cause breast cancer?" by stating,

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[6] In the "Works Cited" portion of the Anti-Choice Claims Web page, PPFA cited: "Melbye, Mads, et al. (1997). 'Induced Abortion and the Risk of Breast Cancer.' *New England Journal of Medicine*, 336(2), 81-85."

[7] In the "Works Cited" portion of the Anti-Choice Claims Web page, PPFA cited: "Lindefors Harris, Britt-Marie, et al. (1989). 'Risk of Cancer of the Breast after Legal Abortion during First Trimester: A Swedish Register Study.' *British Medical Journal*, 299 (December 9), 1430-1432."

"No. But abortion does not offer the same protection against breast cancer as a full term pregnancy."

On PPFA's Surgical Abortion Web page, a visitor could select the question "What are the health risks of abortion?", which would connect the visitor to another page that answered the question by stating, "In the first 20 weeks, abortion is much safer than giving birth." This statement, however, was followed by an explanation of eight "[c]omplications from early abortion," including death. PPFA stated that death "occurs in 1 of 100,000 abortions," and "[c]hildbirth carries seven times more risk."

Bernardo also tried to enjoin portions of PPFA's Medical and Social Health Benefits Web page. Bernardo objected to both the use of the phrase "safe, legal abortion" and the following statement:

> "Today, abortion is one of the most commonly performed clinical procedures, and the current death rate from abortion at all stages of gestation is 0.6 per 100,000 procedures. This is *eleven times safer than carrying a pregnancy to term* and nearly twice as safe as a penicillin injection [citations]."[8] (Italics added.)

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[8] PPFA cited the following two studies listed in the "Cited References" section at the end of the Medical and Social Health Benefits Web page: (1) "Paul, Maureen, et al. (1999). *A Clinician's Guide to Medical and Surgical Abortion*. New York: Churchill Livingstone"; and (2) "Gold, Rachel Benson. (1990). *Abortion and Women's Health: A Turning Point for America?* New York: The Alan Guttmacher Institute."

C. *PPSDRC's Web site and "Fact Sheets"*

PPSDRC's Internet Web site (PPSDRC's Web site) is found at <http://www.planned.org.html>. Like PPFA, PPSDRC publishes various Web site pages that address reproductive health and public affairs issues, including some that Bernardo tried to suppress in this matter. For example, PPSDRC's Web site contained a fact sheet titled "Abortion Info: Q&A: Future [Pregnancies]" (the Abortion Info Web page), which answered the question "Does abortion cause breast cancer?" by stating, "No, but abortion does not offer the protection against breast cancer that having several full-term pregnancies does."

D. *Terms of Use of Planned Parenthood's Web Sites*

Both PPFA and PPSDRC included in their Web sites a terms-of-use page notifying Web site visitors that Planned Parenthood provided the Web sites subject to the visitors' "agreement to comply with the Terms of Use." Each terms-of-use page informed visitors that the information provided on the Web sites was for the visitors' personal education only and that nothing on the Web sites constituted a recommendation for medical care. Each page also advised visitors to "[a]rm yourself with good information about sexual and reproductive health maintenance, and *visit a qualified health care provider for personal medical evaluation, counseling, and services*." (Italics added.)

E. *Bernardo's SLAPP Complaint*

In August 2001, Bernardo filed her SLAPP complaint for injunctive relief against Planned Parenthood under California's Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq., hereafter the UCL) and False Advertising

Law (Bus. & Prof. Code, § 17500 et seq., hereafter the FAL). Bernardo alleged that PPFA and PPSDRC's Internet Web sites contained "unlawful, unfair, confusing, and misleading statements/advertisements" that caused women to make critical health care decisions without full, complete, and accurate information about the safety of abortion, the safety of abortion vis- [agrave] -vis childbirth, and the "scientific/medical literature" that Bernardo believed established the existence of the ABC link.

1. *Injunctive relief requested*

In her complaint, Bernardo sought an injunction restraining Planned Parenthood from publishing statements that abortion is safe or safer than childbirth and that the weight of credible medical research has failed to establish a link between induced abortion and breast cancer. In effect, Bernardo's action thus sought to enjoin portions of PPFA's Anti-Choice Claims, Choosing Abortion, Surgical Abortion and Medical and Social Health Benefits Web pages, as well as PPSDRC's Abortion Info Web page (all of which are discussed, *ante*).

Bernardo also sought a mandatory injunction requiring Planned Parenthood to provide to all of its former and prospective abortion patients a series of statements drafted by Bernardo and her counsel that support Bernardo's view that medical research has established the existence of the claimed ABC link.[9]

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[9] Bernardo requested an injunction "restraining [Planned Parenthood and its] agents from performing abortions and abortion-related services unless they first provide the following information prior to scheduling, and/or accepting any payment for, abortions or abortion-related services to be rendered in California: [P] A large

body of published medical research implicates induced abortion as a cause of breast cancer in two ways. [P] First, abortion does not offer the protection against breast cancer provided by a first full-term pregnancy before age 30. Therefore, having an abortion results in a higher risk of getting breast cancer later in life than carrying the pregnancy to term for women under age 30 who have not yet had a full-term pregnancy. [P] Second, having an abortion increases a wom[a]n's risk of breast cancer even more than the risk is increased by delaying a first full-term pregnancy. Evidence of this additional increased breast cancer risk has been observed in most epidemiological studies in American women. There is also evidence of an even larger increase in breast cancer risk among women who have an induced abortion while a teenager, and among women who have both a family history of breast cancer and an induced abortion."

Bernardo also requested an injunction "requiring [Planned Parenthood] to provide all of their patients who received an induced abortion in California with a notice of the increased risk of breast cancer described herein so that these patients are aware of their increased risk and can seek appropriate medical monitoring and treatment. *The notice should read as follows*: [P] Our records show that you received an abortion at our clinic. We are sending you this notice to inform you that a large body of published medical research implicates induced abortion as a cause of breast cancer in two ways. [P] First, abortion does not offer the protection against breast cancer provided by a first full-term pregnancy before age 30. Therefore, having an abortion results in a higher risk of getting breast cancer later in life than carrying the pregnancy to term for women under age 30 who have not yet had a full-term pregnancy. [P] Second, having an abortion increases a woman's risk of breast cancer even more than the risk is increased by delaying a first full-term pregnancy. Evidence of this additional increased breast cancer risk has been observed in most epidemiological studies in American women. As of June 2001, 17 independent studies in the worldwide literature have substantiated the theory that induced abortion increases breast cancer risk by reporting positive associations with

2. *Brind's affidavit*

In support of these allegations, Bernardo attached to her complaint an affidavit of Joel L. Brind, Ph.D. (Brind), a professor of biology in the Department of Natural Sciences of Baruch College of the City University of New York, and the author of a paper titled, "Induced Abortion as an Independent Risk Factor for Breast Cancer: A Comprehensive Review and Meta-Analysis" (hereafter Brind's meta-analysis),[10] which was published in 1996 in the British Medical Association's *Journal of Epidemiology and Community Health*.

In his affidavit, Brind stated that of 36 independent studies published worldwide that presented specific data on induced abortion and the incidence of breast cancer, 17 had reported a statistically significant increase in the risk of breast cancer overall among women who have one or more induced abortions, and 10 had reported a risk increase that did not achieve statistical significance. He also stated that three of

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statistical significance, a technical term meaning at least 95 [percent] certainty that the association between induced abortion and increased risk of breast cancer is not due to chance. There is also evidence of an even larger increase in breast cancer risk among women who have an induced abortion while a teenager, and among women who have both a family history of breast cancer and an induced abortion. [P] If you have had an abortion you should be aware of this increased risk of breast cancer and seek appropriate medical screening and care. For more information about these studies addressing the link between induced abortion and breast cancer please contact your physician."

[10] The definition of the term "meta-analysis" is set forth in footnote 3, *ante*.

the 36 studies reported no tendency for increased or decreased risk, three reported a decrease in risk that did not achieve statistical significance, and three reported a statistically significant decrease in risk. He explained that, as he discussed in his 1996 meta-analysis, when he compiled the data for all 36 studies, using either a weighted or unweighted average, he calculated that "the risk of breast cancer among those women who had experienced an induced abortion was 30 [percent] higher than among women who had not, independently of the effect due to abortion's delay of first full-term pregnancy," and since the lifetime risk of breast cancer for an average American woman is between 10 and 12 percent, this 30 percent increase "amounts in absolute terms to at least a three percent, or 3 in 100, excess risk of developing breast cancer."

Brind also opined in his affidavit that PPFA's Anti-Choice Claims Web page is "a thoroughly biased and misleading presentation of the scientific literature on this subject," which "creates the untrue and/or misleading impression that the preponderance of the scientific analysis supports the assertion that there is no link between induced abortion and increased risk of breast cancer." He challenged numerous specific statements contained in the Anti-Choice Claims Web page.

Brind opined that Planned Parenthood's answer of "No" to the question "Does abortion cause breast cancer?" was "untrue and/or misleading, because the overwhelming preponderance of the evidence indicates that abortion does cause breast cancer, both by removing the protection against breast cancer to be gained by completing the pregnancy already in progress, and by increasing the risk of breast cancer independently of the loss of this protective effect." He also opined that the Planned Parenthood Web site statements he challenged were "likely to mislead reasonable members of the public as to the safety of abortion, the safety of abortion

vis- [agrave] -vis childbirth, and the link between induced abortion and breast cancer."

F. *Planned Parenthood's Special Motion To Strike Under the Anti-SLAPP Statute*

Planned Parenthood filed a special motion under the anti-SLAPP statute to strike Bernardo's complaint. Planned Parenthood argued that the complaint was a meritless SLAPP intended to use California's consumer protection statutes (Bus. & Prof. Code, §§ 17200 et seq. & 17500 et seq.) to thwart Planned Parenthood from exercising its constitutional right to speak about abortion; stop it from "providing free information on the [W]orld [W]ide [W]eb regarding abortion, an issue of great public concern, and on the related issue of breast cancer and abortion"; force it to adopt Bernardo's view of medicine on Planned Parenthood's own Web sites and tell women that abortion causes breast cancer; and "frighten women into refraining from exercising a constitutional right to reproductive choice" based on "very questionable science" and Bernardo's "anti-abortion agenda."

Planned Parenthood also argued that Bernardo could not meet her burden under the anti-SLAPP statute (section 425.16, subd. (b)(1), hereafter § 425.16(b)(1))[11] of showing a probability that she would prevail on any of her claims because (1) Planned Parenthood advised all visitors to its Web

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[11] Section 425.16(b)(1) provides: "A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim."

sites in the terms of use (discussed, *ante*) that the health information provided on the Web sites was for the visitors' personal education only; (2) the information did not concern any product or service within the meaning of the UCL, nor did it concern or advertise any product or service within the meaning of the FAL, and thus did not fall within the ambit of these consumer protection statutes; and (3) even if it did, the Web site health information was supported by ample peer-reviewed scientific studies as shown by the supporting expert declarations of four health professionals.

In support of the motion to strike, Planned Parenthood submitted the declarations of David B. Preskill, M.D., the Chief of Service for Obstetrics and Gynecology at Southern California Kaiser Permanente in San Diego; Georgia Robbins Sadler, Ph.D., Associate Clinical Professor of Surgery at the University of California, San Diego (UCSD) School of Medicine, and the Associate Director for Outreach at the UCSD Cancer Center; Steven R. Drosman, M.D., the former Chief of the Obstetrics and Gynecology Section of Sharp Memorial Hospital and currently the Chief of Staff for Sharp Mary Birch Hospital for Women, at Sharp Memorial Hospital and Polly A. Newcomb, Ph.D., who is a member of the Fred Hutchinson Cancer Research Center in Seattle, Washington, a professor of epidemiology at the University of Washington School of Public Health, and an associate editor who provides editorial service to 18 peer-review epidemiology journals, including the *New England Journal of Medicine* and the *American Journal of Epidemiology*.

Planned Parenthood filed a written request that the court take judicial notice of the fact that abortion is one of the most controversial political issues in our nation.

Bernardo opposed the special motion to strike, asserting that this case is not about the right to abortion. Bernardo contended the motion should be denied on two main grounds: (1) Planned Parenthood's speech was false and misleading, such speech was not entitled to legal protection, and thus Planned Parenthood had failed to make the requisite prima facie showing that they were engaged in protected activity within the meaning of section 425.16; and (2) Bernardo was able to make a prima facie showing of a probability of succeeding on the merits because Planned Parenthood Web site statements were made in connection with their offer of abortion services so as to constitute advertising within the meaning of the UCL and FAL, and Bernardo had "all but conclusive evidence" that those statements misled the public about the safety of abortion, the safety of abortion vis-[agrave] -vis childbirth, and the evidence showing that induced abortion increases the risk of breast cancer.

In support of her opposition, Bernardo submitted the declarations of all three individual appellants; Brind's declaration; and the declaration of five medical doctors, "one from each medical specialty required to address the increased risk of breast cancer caused by induced abortion over the life of the woman," who all opined that induced abortion causes increased risk of breast cancer: Elizabeth Shadigian, M.D., a board certified obstetrician/gynecologist engaged in clinical practice and teaching at the University of Michigan, School of Medicine; Jane Anderson, M.D., a board certified pediatrician teaching at the University of California, San Francisco; Chris Kahlenborn, M.D., a board certified physician of internal medicine engaged in clinical practice and epidemiological research who has published on the ABC link; Jose Bufill, M.D. (Bufill), who studied medicine at the University of Navarre in Spain, and is practicing oncology and hematology and teaching at the Indiana University School

of Medicine; and Angela Lanfranchi, M.D., a surgeon specializing in breast surgery, and a clinical professor at Robert Wood Johnson Medical School.

G. *Order Granting Planned Parenthood's Anti-SLAPP Motion To Strike*

The court granted Planned Parenthood's motion to strike Bernardo's complaint under the anti-SLAPP statute on the ground that Bernardo had failed to show the requisite probability of prevailing on the merits of the complaint and obtaining the injunctive relief she sought. Specifically, the court found that the challenged statements in Planned Parenthood's Web pages "[could not] be construed as pure commercial speech or pure advertisement" and, even if they could be so construed, Bernardo had failed to present sufficient evidence to show a probability of prevailing on the UCL and FAL claims that Planned Parenthood's Web site statements were unlawful, that they constituted an unfair or fraudulent business practice, and that they also constituted false or deceptive advertising. The court noted that contrary to Bernardo's argument that Planned Parenthood's Web sites were deceptive by failing to recognize the "protective effect" against breast cancer that a full-term pregnancy provides, Bernardo had acknowledged Planned Parenthood's statement (in the Choosing Abortion and Abortion Info Web pages) that "abortion does not offer the same protection against breast cancer as a full term pregnancy." The court also noted Bernardo's allegation that Planned Parenthood had made a false statement of fact by claiming that abortion is safer than childbirth, but found that this allegation was centered on Bernardo's position that abortion causes breast cancer and that her own evidence showed there were two "camps of thought" and an "on-going debate in the scientific community" on the issue of whether there is link between induced abortion and

breast cancer. The court further found that Planned Parenthood had not failed to disclose (in its Anti-Choice Claims Web page) that numerous studies supported Bernardo's position that induced abortions increase a woman's risk of breast cancer. In appeal No. D040186, Bernardo has appealed the order granting Planned Parenthood's section 425.16 motion to strike.

H. *Order Awarding Attorney Fees to Planned Parenthood*

Planned Parenthood brought a motion for a mandatory award of attorney fees under section 425.16(c) in the amount of $77,835.25. Bernardo opposed the motion, claiming the lawsuit was not a "sham"; that Planned Parenthood was seeking an improper enhancement on a contingency fee basis that would punish Bernardo's counsel in violation of his due process rights to notice; and that an award of fees under section 425.16(c) would violate Bernardo's rights under the United States and California Constitutions to petition the government for redress of grievances and exercise free speech in connection with a public issue, as well as Bernardo's due process right to meaningful notice as to when mandatory costs and fees will be levied, and the guarantee of equal protection in that section 425.16(c) "functions as a content-based penalty for certain suits and creates an invidious distinction between classes of litigants and causes which is not narrowly tailored to achieve any compelling governmental interest."

The court issued an order granting the attorney fees motion and awarding attorney fees to Planned Parenthood in the sum of $77,835.25. In appeal No. D040866, Bernardo has appealed that order.

DISCUSSION

I.

BERNARDO'S APPEAL FROM THE ORDER GRANTING PLANNED PARENTHOOD'S MOTION TO STRIKE THE COMPLAINT UNDER THE ANTI-SLAPP STATUTE

For reasons we shall explain, we independently conclude that Planned Parenthood was entitled to a judgment of dismissal under the anti-SLAPP statute because in opposing Planned Parenthood's motion to strike under section 425.16, Bernardo failed to state and substantiate a legally sufficient claim and thus failed to meet her statutory burden of showing a reasonable probability of prevailing on the claims for injunctive relief asserted in her complaint.

A. *Standard of Review*

"We review the trial court's rulings on a SLAPP motion independently under a de novo standard of review." (*Kajima Engineering & Consruction., Inc. v. City of Los Angeles* (2002) 95 Cal.App.4th 921, 929.)

B. *Overview of Section 425.16*

In *Dowling, supra*, 85 Cal.App.4th at page 1414, this court explained that "[a] SLAPP lawsuit is generally defined as a 'meritless suit filed primarily to chill the defendant's exercise of First Amendment rights.' [Citation.] SLAPP suits 'are brought, not to vindicate a legal right, but rather to interfere with the defendant's ability to pursue his or her interests. Characteristically, the SLAPP suit lacks merit; it will achieve its objective if it depletes defendant's resources

or energy. The aim is not to win the lawsuit but to detract the defendant from his or her objective, which is adverse to the plaintiff. [Citation.]' [Citation.]"

As we also observed in *Dowling*, "[s]ection 425.16 was enacted in 1992 to deter and prevent SLAPP suits, and is 'designed to protect citizens in the exercise of their First Amendment constitutional rights of free speech and petition.' [Citation.] The anti-SLAPP statute 'is California's response to the problems created by meritless lawsuits brought to harass those who have exercised these rights.' [Citation.] 'California enacted section 425.16 to provide a procedural remedy to resolve such a suit expeditiously.' [Citation.]" (*Dowling, supra,* 85 Cal.App.4th at p. 1414, italics omitted.)

The Legislature expressly set forth the intent and purpose underlying the anti-SLAPP statute in section 425.16, subdivision (a), which provides: " The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly."

We further explained in *Dowling* that " 'the common features of SLAPP suits are their lack of merit and chilling of defendants' valid exercise of free speech and the right to petition the government for a redress of grievances.' [Citation.] 'Section 425.16 was intended to address those features by providing a fast and inexpensive unmasking and dismissal of SLAPP's. [Citations.]' [Citation.]" (*Dowling, supra*, 85 Cal.App.4th at pp. 1414-1415.)

1. Special motion to strike SLAPP suits

"[Section 425.16(b)(1)] authorizes a special motion to strike a SLAPP suit, and expressly makes subject to such a motion '[a] cause of action against a person *arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue* ..., unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.' " (*Dowling, supra*, 85 Cal.App.4th at p. 1415, italics added by *Dowling*.)

In *Dowling*, we noted that "[s]ubdivision (e) of section 425.16 expressly defines the First Amendment activity from which a cause of action must arise within the meaning of section 425.16[(b)(1)] ... in order to be the proper subject of a special motion to strike under the anti-SLAPP statute. [Citation.] Subdivision (e), as amended in 1997, provides that the phrase ' "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue;" ' as used in section 425.16, includes four categories of conduct, which are separately defined in the subdivision's four clauses: [¶] *1)* '[A]ny written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law' (§ 425.16, subd. (e)(1)); [¶] 2) '[A]ny written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law' (§ 425.16, subd. (e)(2)); [¶] 3) '[A]ny written or oral statement or writing made in a place open to the public or a public forum *in connection with an issue of public interest*' (§ 425.16, subd.

(e)(3), [italics added by *Dowling*]); or [¶] 4) '[A]ny other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest' (§ 425.16, subd. (e)(4))." (*Dowling, supra*, 85 Cal.App.4th at pp. 1415-1416, fn. omitted.)

a. *Burdens of proof*

In *Navellier v. Sletten* (2002) 29 Cal.4th 82 (*Navellier*), the California Supreme Court explained the two-step process that a court must follow in determining whether an action is a SLAPP within the meaning of section 425.16. "First, the court decides whether the defendant has made a threshold showing that the challenged cause of action is one arising from protected activity. (§ 425.16[(b)(1)].) 'A defendant meets this burden by demonstrating that the act underlying the plaintiff's cause fits one of the categories spelled out in section 425.16, subdivision (e)' [citation]. If the court finds that such a showing has been made, it must then determine whether the plaintiff has demonstrated a probability of prevailing on the claim. (§ 425.16[(b)(1)]; see generally *Equilon Enterprises v. Consumer Cause. Inc.* (2002) 29 Cal.4th 53, 67[(*Equilon*)].)" (*Navellier, supra,* 29 Cal.4th at p. 88.)

The *Navellier* court also explained that "in order to establish the requisite probability of prevailing (§ 425.16[(b)(1)]), the plaintiff need only have '"stated and substantiated a legally sufficient claim."' [Citation.] 'Put another way, the plaintiff "must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited." ' [Citation.] [¶] Only a cause of action that satisfies

both prongs of the anti-SLAPP statute--i.e., that arises from protected speech or petitioning *and* lacks even minimal merit--is a SLAPP, subject to being stricken under the statute." (*Navellier, supra,* 29 Cal.4th at pp. 88-89.)

"In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based." (§ 425.16, subd. (b)(2).) "[T]hough the court does not *weigh* the credibility or comparative probative strength of competing evidence, it should grant the motion if, as a matter of law, the defendant's evidence supporting the motion defeats the plaintiff's attempt to establish evidentiary support for the claim. [Citation.]" (*Wilson v. Parker, Covert & Chidester* (2002) 28 Cal.4th 811, 821.)

C. *Analysis*

The record shows Bernardo did not and cannot meet her statutory burden under the anti-SLAPP statute of showing a reasonable probability of prevailing on the merits of her claims for injunctive relief because (1) Bernardo's own evidence shows that Planned Parenthood's challenged statements about the claimed ABC link were expressions of opinion about an issue of genuine scientific debate, and those statements were noncommercial speech fully protected under the First Amendment to the United States Constitution and not actionable under either the UCL or FAL; (2) Bernardo's challenge to Planned Parenthood's statements regarding the safety of abortion failed as a matter of law because her own evidence showed that this challenge was based on the unsupported premise that the claimed ABC link was an established scientific fact; and (3) were we to assume Planned Parenthood's Web site statements were commercial speech that consisted of or were based on statements of fact, not

opinion, Bernardo failed to show a reasonable probability of prevailing on the merits of her claims that the statements were unlawful, unfair or fraudulent within the meaning of Business and Professions Code section 17200 or constituted false advertising within the meaning of Business and Professions Code section 17500. We reject Bernardo's contentions that the court improperly weighed the evidence and improperly applied section 425.16 in violation of Bernardo's constitutional rights.

1. *The challenged statements are fully protected noncommercial speech*

Bernardo cannot show a probability of prevailing on the merits of her claims because her own evidence shows Planned Parenthood's challenged speech regarding the central disputed issue of whether induced abortion causes breast cancer was noncommercial speech entitled to full First Amendment protection, and thus was not actionable under Business and Professions Code sections 17200 or 17500.

Commercial speech is "usually defined as speech that does no more than propose a commercial transaction." (*United States v. United Foods, Inc.* (2001) 533 U.S. 405, 409, citing *Virginia Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.* (1976) 425 U.S. 748, 762.) The United States Supreme Court has held that the federal Constitution "accords less protection to commercial speech than to other constitutionally safeguarded forms of expression." (*Bolger v. Youngs Drug Products Corp.* (1983) 463 U.S. 60, 64-65 (*Bolger*).)

In *Kasky v. Nike, Inc.* (2002) 27 Cal.4th 939, 952 (*Nike*), the California Supreme Court explained that "[f]or noncommercial speech entitled to full First Amendment

protection, a content-based regulation is valid under the First Amendment only if it can withstand strict scrutiny, which requires that the regulation be narrowly tailored (that is, the least restrictive means) to promote a compelling government interest. [Citations.]" We note that Planned Parenthood asserts, and the record shows, that Bernardo does not claim that Planned Parenthood's speech may be regulated under Business and Professions Code sections 17200 or 17500 if it is noncommercial speech.

Here, Bernardo's own evidence in opposition to Planned Parenthood's motion to strike shows that Planned Parenthood's speech on the claimed ABC link is noncommercial speech entitled to full First Amendment protection. Bernardo's complaint alleged that PPFA and PPSDRC's Internet Web sites contained "unlawful, unfair, confusing, and misleading statements/advertisements" in violation of Business and Professions Code sections 17200 and 17500 that caused women to make critical health care decisions without full, complete, and accurate information about the safety of abortion in general, the safety of abortion vis- [agrave] -vis childbirth, and the scientific/medical literature that Bernardo claims establishes a link between induced abortion and breast cancer.

In opposing Planned Parenthood's motion to strike the complaint under the anti-SLAPP statute, Bernardo submitted photocopies of the various challenged documents that Planned Parenthood published on its Web sites: (1) PPFA's Anti-Choice Claims Web page; (2) PPFA's Choosing Abortion Web page; (3) PPFA's Surgical Abortion Web page; (4) PPFA's Medical and Social Health Benefits Web page; and (5) PPSDRC's Abortion Info Web page. On appeal, Bernardo maintains she met her burden of showing a probability of prevailing on her claim that Planned Parenthood made false

statements of fact on those Web pages by claiming that abortion is safer than childbirth and that induced abortion does not cause breast cancer.

The evidence submitted by Bernardo shows, however, that none of Planned Parenthood's challenged Web pages proposed a commercial transaction in its contents. Rather, they were all educational in nature and asserted Planned Parenthood's positions on disputed scientific and medical issues of public interest with which Bernardo strenuously disagreed.[12] For example, PPFA's Anti-Choice Claims Web page, which addressed the claimed ABC link that was of central importance in Bernardo's action against Planned Parenthood, stated PPFA's "position" that the ABC link is "a theory [that] has not been borne out by research"; explained the ABC link "theory"; and asserted that the principal promoters of that "theory" opposed abortion.[13] The Web page also contained

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[12] Bernardo's own evidence confirmed Planned Parenthood's position that the claimed ABC link is the controversial subject of a genuine scientific debate. In opposition to Planned Parenthood's motion to strike, Bernardo submitted the declaration of Jose Bufill, M.D., who stated in part: "*Two schools define the scientific debate regarding the association of induced abortion with subsequent development of breast cancer*. One group argues that the weight of scientific data indicates that induced abortion places women at risk for breast cancer .... They offer evidence from a wide range of scientific perspectives ... to offer a coherent, unified argument in support of a causal association. The other group ... argues that no such association exists. The arguments they offer in support of their *opinion* center on a critique of the statistical methods used in the epidemiologic studies specifically addressing the association. ..." (Italics added.)

[13] PPFA stated that "[t]he link between induced abortion and breast cancer is a theory whose principal promoters oppose

a review of some of the many studies of the alleged ABC link published over the previous 20 years, including some, such as Brind's meta-analysis (see fn. 4, *ante*), that support Bernardo's position that such a link exists, and others that supported PPFA's position on the ABC link issue, such as a study of 1.5 million women, published in 1997 by the *New England Journal of Medicine* (see fn. 6, *ante*), which, according to PPFA, found no overall connection between abortion and breast cancer. The Anti-Choice Claims Web page also discussed research regarding various factors that can render a study of the claimed ABC link unreliable and concluded with a "Works Cited" bibliography that cited 32 published studies on the ABC link issue, including Brind's meta-analysis and others that support Bernardo's position on the ABC link. The foregoing shows that PPFA's Anti-Choice Claims Web page was educational, not commercial, in nature.

In support of the contention that Planned Parenthood's statements are commercial speech, Bernardo points to the authenticated photocopies of Planned Parenthood's Web sites that she submitted in opposition to the motion to strike, which show (1) that on "[v]irtually every web page," PPFA provided "health info," "health centers" and "sexual health"

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abortion regardless of its safety. The theory has not been borne out by research." It explained the ABC link "theory": "The theory linking pregnancy termination and breast cancer is based on the hormonal disruption that occurs when a woman's pregnancy is interrupted. Pregnancy initiates a surge of sex hormones (estrogen, progesterone, and prolactin), which leads to differentiation of the cells in the breast glands in preparation for lactation. ... Adherents of this theory claim that interruption of the first trimester of a first pregnancy causes a cessation of cell differentiation that may result in a subsequent increase in the risk of cancerous growth in these tissues."

hyperlinks that provided Web site visitors with access to sexual health information and the locations of affiliated health centers (including PPSDRC), as well as a toll-free telephone number that visitors could call to schedule an appointment; and (2) that PPSDRC's Web pages provided visitors with an opportunity to obtain payment information and clinic locations and to make an appointment. The brief text of the hyperlinks (such as "health info," "health centers" and "sexual health") on the various Web pages did not advertise or promote any services provided by clinics affiliated with Planned Parenthood. While the toll-free number provided to Web site visitors a means for scheduling an appointment for medical services, it is significant that both PPFA and PPSDRC included in their Web sites a terms-of-use page notifying visitors that Planned Parenthood was providing the Web sites subject to the visitors' "agreement to comply with the Terms of Use." Each terms-of-use page informed visitors that the information provided on Planned Parenthood's Web sites was for the visitors' "*personal education*, but nothing on this site constitutes a recommendation for medical care ...." (Italics added.) Each page also advised visitors to "[a]rm yourself with good information about sexual and reproductive health maintenance, and visit a qualified health care provider for personal medical evaluation, counseling, and services."

Bernardo also relies on the fact that PPSDRC and other affiliates of PPFA provide abortion and other services from which PPFA and the affiliates derive revenue. However, any economic motivation that Planned Parenthood may have had in publishing the challenged Web site speech regarding the claimed ABC link and the safety of abortion would be insufficient by itself to turn the statements into commercial speech. In *Bolger, supra*, 463 U.S. 60, a manufacturer and distributor of contraceptives brought an action for declaratory and injunctive relief challenging a federal statute that

prohibited the unsolicited mailing of contraceptive advertisements. (*Id.* at pp. 61-63.) The manufacturer decided to undertake a campaign of mailing to the public on an unsolicited basis some informational pamphlets (among other things) that not only promoted its products, but also contained discussions of important public issues such as venereal disease and family planning. (*Id.* at pp. 62, 67-68.) The Supreme Court found that most of the manufacturer's mailings fell "within the core notion of commercial speech--'speech which does "no more than propose a commercial transaction."' [Citations.]" (*Id.* at p. 66.) Although the *Bolger* court held that the mailings constituted commercial speech, noting that the informational pamphlets were "conceded to be advertisements" (*ibid.*), the high court explained that "the fact that [the manufacturer] ha[d] an economic motivation for mailing the pamphlets would clearly be insufficient by itself to turn the materials into commercial speech. [Citations.]" (*Id.* at p. 67.) Similarly here, any "economic motivation" Planned Parenthood may have had in publishing the Web site speech that Bernardo challenges in this case would be insufficient by itself to turn the statements into commercial speech actionable under the UCL and FAL.

Even were we to assume that the toll-free number and Planned Parenthood's hyperlinks to information about specific clinics and services constituted commercial speech, the noncommercial speech published in the various Web pages would still receive full First Amendment protection. In *Pacific Gas & Elec. Co. v. Public Util. Comm'n* (1986) 475 U.S. 1, 9, the United States Supreme Court held that a utility's newsletter, which was distributed to ratepayers in the monthly billing envelopes and the contents of which ranged from political editorials to energy saving tips and billing information, "extend[ed] well beyond speech that proposes a business transaction ... [citations], and include[d] the kind of

discussion of 'matters of public concern' that the First Amendment both fully protects and implicitly encourages. [Citation.]" Under similar reasoning, Planned Parenthood's noncommercial speech in the various Web pages at issue here was fully protected under the First Amendment despite any claimed contiguous commercial speech set forth directly or indirectly in the hyperlinks or in the text accompanying the toll-free telephone number, discussed, *ante*.

Bernardo also relies on *Nike, supra*, 27 Cal.4th 939, as supporting her contention that Planned Parenthood's speech is commercial. Bernardo's reliance on *Nike*, however, is misplaced.

In *Nike*, the plaintiff, acting on behalf of the general public, brought suit under the UCL and FAL alleging that the defendant corporation, Nike, Inc. (Nike), responded to public criticism and induced consumers to continue to buy its products by making false statements of fact about its labor practices and about working conditions in factories that made its products. (*Nike, supra*, 27 Cal.4th at pp. 945, 946-947, 949-950.) Specifically, the plaintiff alleged that Nike made statements in press releases, in letters to newspapers, in a letter to university presidents and athletic directors, and in other documents distributed for public relations purposes to the effect that workers who made Nike products were "protected from physical and sexual abuse, that they [were] paid in accordance with applicable local laws and regulations governing wages and hours, that they [were] paid on average double the applicable local minimum wage, that they received a 'living wage,' that they received free meals and health care, and that their working conditions [were] in compliance with applicable local laws and regulations governing occupational health and safety." (*Id.* at pp. 947-948.) The California Supreme Court reversed the Court of Appeal's judgment

affirming the trial court's judgment of dismissal after the trial court sustained Nike's demurrer without leave to amend on the ground Nike's statements were constitutionally protected noncommercial speech. (*Id.* at pp. 948-949, 970.)

In holding that Nike's speech was commercial, the Supreme Court articulated and applied a "limited-purpose test" (the *Nike* test), stating that "*when a court must decide whether particular speech may be subjected to laws aimed at preventing false advertising or other forms of commercial deception*, categorizing a particular statement as commercial or noncommercial speech requires consideration of three elements: the speaker, the intended audience, and the content of the message." (*Nike, supra,* 27 Cal.4th at p. 960, original italics.) The *Nike* court explained that "[i]n typical commercial speech cases, the *speaker* is likely to be someone engaged in commerce--that is, generally, the production, distribution, or sale of goods or services or someone acting on behalf of a person so engaged, and the *intended audience* is likely to be actual or potential buyers or customers of the speaker's goods or services, or persons acting for actual or potential buyers or customers, or persons (such as reporters or reviewers) likely to repeat the message to or otherwise influence actual or potential buyers or customers." (*Ibid.*, original italics.) With respect to the "content-of-the-message" element of the *Nike* test, the high court stated that "the *factual* content of the message should be *commercial in character*. In the context of regulation of false or misleading advertising, this typically means that the speech consists of *representations of fact about the business operations, products, or services of the speaker* (or the individual or company that the speaker represents), *made for the purpose of promoting sales of, or other commercial transactions in, the speaker's products or services*." (*Id.* at p. 961, italics added.) The court rephrased its *Nike* test by stating that "in relation to regulations aimed at

protecting consumers from false and misleading promotional practices, *commercial speech must consist of factual representations* about the business operations, products, or services of the speaker (or the individual or company on whose behalf the speaker is speaking), made for the purpose of promoting sales of, or other commercial transactions in, the speaker's products or services." (*Id.* at p. 962, italics added.) Thus, the three elements of the *Nike* test are (1) a commercial speaker, (2) an intended commercial audience, and (3) representations of fact of a commercial nature. (See *id.* at p. 964.) The high court stressed that the UCL and FAL "do not suppress points of view but instead suppress false and misleading statements of fact." (*Nike, supra*, 27 Cal.4th at p. 967.)

Applying the foregoing elements of the *Nike* test to the record presented in this appeal, we conclude that Bernardo failed to show a reasonable probability of prevailing on her contention that Planned Parenthood's speech is commercial under that test. Assuming without deciding that Planned Parenthood is a commercial speaker on the ground it receives revenue from affiliated health centers, Bernardo has failed to show that Planned Parenthood's Web site statements regarding the claimed ABC link and the safety of abortion constitute representations of fact of a commercial nature within the meaning of the *Nike* test. In *Nike*, the Supreme Court held that this third element of the *Nike* test was satisfied because "[i]n describing its own labor policies, and the practices and working conditions in factories where its products are made, Nike was making *factual representations about its own business operations*." (*Nike, supra*, 27 Cal.4th at p. 963, italics added.) The court further explained that "[i]n speaking to consumers about working conditions and labor practices in the factories where its products are made, *Nike addressed matters within its own knowledge*. The wages paid

to the factories' employees, the hours they work, the way they are treated, and whether the environmental conditions under which they work violate local health and safety laws, are all matters likely to be within the personal knowledge of Nike executives, employees, or subcontractors. Thus, *Nike was in a position to readily verify the truth of any factual assertions it made on these topics.*" (*Ibid.*)

Here, however, Bernardo sought to enjoin not readily verifiable *factual* assertions about matters within Planned Parenthood's own knowledge, but Planned Parenthood's statements of *opinion* about the claimed ABC link that one of Bernardo's own experts, Bufill, conceded was the subject of "[t]wo schools" of "scientific debate." (See fn. 12, *ante*).

Bernardo does not claim, nor can she, that the claimed ABC link, a matter of genuine scientific debate, is a matter that is within Planned Parenthood's "own knowledge" within the meaning of the *Nike* test. The evidence of the Anti-Choice Claims Web page submitted by Bernardo shows that PPFA stated therein under the subheading, "**The Planned Parenthood Position is That Abortion Poses no Demonstrated Health Risks**" (original boldface), that "[t]he link between induced abortion and breast cancer is a theory" that "has not been borne out by research." The reference to Planned Parenthood's "position" indicates that Planned Parenthood was expressing its *opinion* about this disputed "theory." Bufill, in his declaration filed by Bernardo in opposition to Planned Parenthood's motion to strike the complaint under the anti-SLAPP statute, specifically discussed the "school[]" (to which Planned Parenthood indisputably belongs) that argues there is no causal association between induced abortion and breast cancer, and stated that "[t]he arguments they offer in support of their *opinion* center on a critique of the statistical methods used in the epidemiologic

studies specifically addressing the association ...." (Italics added.) Thus, Bernardo's expert witness evidence shows that the position taken on the ABC link issue by the school to which Planned Parenthood belongs constitutes an opinion, not a representation of fact.

Bernardo has also failed to show that the intended audience of Planned Parenthood's Web site speech was "likely to be actual or potential buyers or customers" of the health services of the affiliated Planned Parenthood centers. (See *Nike, supra*, 27 Cal.4th at p. 960.) The record shows that Planned Parenthood's statements were published on the Internet, on Web sites accessible by the general public, and were not directed to any particular audience. Because Planned Parenthood's challenged statements about the claimed ABC link were statements of opinion to the general public about matters not within its own personal knowledge, they were not actionable under Business and Professions Code sections 17200 and 17500. (*Nike, supra,* 27 Cal.4th at pp. 962, 964.)

Bernardo has also failed to show a probability of prevailing on her claim that Planned Parenthood's speech concerning the safety of abortion constituted commercial speech that was actionable under the UCL and FAL. In her complaint Bernardo challenged (1) PPFA's statement in its Surgical Abortion Web page that "[i]n the first 20 weeks, abortion is much safer than giving birth"; (2) PPFA's statements in its Medical and Social Health Benefits Web page that "the current death rate from abortion at all stages of gestation is 0.6 per 100,000 procedures," and "[t]his is eleven times safer than carrying a pregnancy to term and nearly twice as safe as a penicillin injection"; and (3) PPSDFC's statement in its Abortion Info Web page that "abortion is about twice as safe as having your tonsils out and is safer than childbirth,"

and "abortion is 11 times safer than giving birth up to the 18th week of pregnancy."

On appeal, Bernardo contends her evidence shows that these statements about the safety of abortion are statements of fact, not opinion, and that they are false. This contention, however, is predicated on evidence she submitted in opposition to Planned Parenthood's motion to strike, which she maintains established that induced abortion causes breast cancer. Specifically, Bernardo asserts in her opening brief that "[Planned Parenthood's] statements of fact are false because *induced abortion does cause breast cancer and, as a result, abortion is not safer than childbirth.*" (Italics added.) Bernardo also states that "[Planned Parenthood's] comparison of mortality rates of abortion and childbirth is false and misleading because it does not factor in deaths resulting from the abrogation of the protective effect[14] caused by termination of a pregnancy via induced abortion and resulting in breast cancer deaths."

In determining whether Bernardo has established a probability of prevailing on her claims under Business and Professions Code sections 17200 and 17500 regarding Planned Parenthood's statements about the safety of abortion, our analysis thus necessarily focuses again on Planned Parenthood's published *opinion* that credible scientific evidence has not established that induced abortion increases the risk of breast cancer. Bernardo's claim that Planned

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[14] Bernardo attempts to define the term "protective effect" on appeal by stating in her opening brief that "[t]he role of a first full term pregnancy in reducing long term risk of breast cancer (i.e., the *'protective effect'*) is a medical fact beyond dispute as is the abrogation of the protective effect (and resulting increase in breast cancer risk) caused by the decision to abort." (Italics added.)

Parenthood's statements about the safety of abortion are false is based solely upon her claims that (1) the ABC link is an established scientific fact, and (2) Planned Parenthood has misrepresented the safety of abortion by failing to "factor in deaths resulting from the abrogation of the protective effect caused by termination of pregnancy via induced abortion and resulting in breast cancer deaths." However, as already discussed, Bernardo's own evidence established that the ABC link is *not* an established scientific fact because, according to one of her own expert witnesses (Bufill), it is the disputed subject of both a genuine scientific debate and of opposing opinions held by two schools (see fn. 12, *ante*). Bernardo's own evidence also shows that she belongs to the school that believes the ABC link is an established scientific fact, and Planned Parenthood belongs to the school that is of the opinion that it is not an established scientific fact.

We conclude the court properly found that Planned Parenthood's challenged Web site speech is not commercial speech because "[Planned Parenthood's] statements are not made in connection with an offer to sell abortion services, are not 'promotional' of abortion and/or do not propose a 'commercial transaction.' [Citations.] Rather, [Planned Parenthood's] statements [are] educational and/or informative in nature, as opposed to advocating and or 'advertising' (in the sense of inducing or offering a financial transaction) abortion services." Under any recognized test for commercial speech, including the *Nike* test on which Bernardo relies, Bernardo has failed to show a reasonable probability of prevailing on the merits of her claims that Planned Parenthood's challenged Web site speech is commercial or that its statements concerning the claimed ABC link and the safety of abortion are false, misleading or deceptive representations of fact that are actionable under Business and Professions Code sections 17200 and 17500.

2. *Assuming Planned Parenthood's statements were statements of fact, not opinion, and commercial speech, Bernardo has failed to show a reasonable probability of prevailing on her claims that the statements violated the UCL or FAL*

Even if Planned Parenthood's Web site statements were deemed to be commercial speech as representations of fact rather than expressions of opinion concerning the claimed ABC link, Bernardo's own evidence shows that she failed to establish a reasonable probability of prevailing on the merits of her claims that the statements violated Business and Professions Code sections 17200 and 17500 as alleged in her complaint.

a. *UCL*

California's unfair competition law "prohibits unfair competition, which is defined as 'any *unlawful, unfair or fraudulent* business act or practice ....' ([Bus. & Prof. Code,] § 17200.) 'Because Business and Professions Code section 17200 is written in the disjunctive, it establishes three varieties of unfair competition--acts or practices which are *unlawful, or unfair, or fraudulent*.' [Citation.]" (*Shvarts v. Budget Group, Inc.* (2000) 81 Cal.App.4th 1153, 1157 [97 Cal. Rptr. 2d 722].) Citing Business and Professions Code section 17204,[15] the Supreme Court in the *Nike* case explained

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[15] Business and Professions Code section 17204 provides: "Actions for any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of

that "[n]ot only public prosecutors, but also 'any person acting for the interests of ... the general public,' may bring an action for relief under the UCL." (*Nike, supra*, 27 Cal.4th at pp. 949-950.) The *Nike* court also explained that "[u]nder this provision, a private plaintiff may bring a UCL action even when 'the conduct alleged to constitute unfair competition violates a statute for the direct enforcement of which there is no private right of action.' [Citation.]" (*Id.* at p. 950.)

i. *"Unlawful" business practice or act*

An "unlawful" business practice or act within the meaning of the UCL "is an act or practice, committed pursuant to business activity, that is at the same time *forbidden by law*. [Citation.]" (*Klein v. Earth Elements, Inc.* (1997) 59 Cal.App.4th 965, 969.) The California Supreme Court has explained that "[b]y proscribing 'any unlawful' business practice, '[Business and Professions Code] section 17200 "borrows" violations of other laws and treats them as unlawful practices' that the unfair competition law makes independently actionable. [Citation.]" (*Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163, 180 (*Cel-Tech*).)

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a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by *any person acting for the interests of* itself, its members or *the general public*." (Italics added.)

Here, as the court properly found, Bernardo "failed to state which statute, regulation or law (whether federal, state or common law) [Planned Parenthood] allegedly violated." On appeal, Bernardo again fails to identify any statutory, regulatory or decisional law that Planned Parenthood allegedly violated. We thus conclude that Bernardo failed to meet her burden of stating and substantiating a legally sufficient claim of unlawfulness. (*Navellier, supra*, 29 Cal.4th at p. 88.)

ii. *"Unfair" business practice or act*

The court noted that "[w]ith regard to the definition of 'unfair' under the UCL ... the law is unclear as to which definition of 'unfair' applies in consumer cases [after] *Cel-Tech* [*supra,*] 20 Cal.4th 163." One commentator has stated in reference to *Cel-Tech* that "[t]he California Supreme Court has apparently decided to leave for another day, or leave for the appellate courts, the task of formulating a definition of 'unfair' in consumer cases." (Stern, Bus. & Prof. C. § 17200 Practice (The Rutter Group 2003) ¶ 3:119, p. 3-28.) In *Gregory v. Albertson's, Inc.* (2002) 104 Cal.App.4th 845, 851 (*Gregory*), a post-*Cel-Tech* decision, the Court of Appeal recently stated that "[t]he term unfair is not precisely defined in the statute, and the courts have struggled to come up with a workable definition."

Referring to the term "unfair" as used in the UCL, the California Supreme Court in *Cel-Tech* stated that "[a] few Courts of Appeal have attempted a definition. (E.g., *People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal. App. 3d 509, 530 ['[A]n "unfair" business practice occurs when it offends an established public policy or when the practice is immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.']; *State Farm Fire & Casualty Co. v. Superior Court* 1996 45 Cal.App.4th 1093,

1104 ['"the court must weigh the utility of the defendant's conduct against the gravity of the harm to the alleged victim"'].)" (*Cel-Tech, supra*, 20 Cal.4th at p. 184.)

In *Cel-Tech*, which in part involved an action under the UCL by sellers of cellular telephones against a direct competitor that allegedly sold such telephones below cost to gain subscribers for its cellular service, the Supreme Court adopted a new "test" for determining whether a business practice or act is "unfair" within the meaning of the UCL: "When a plaintiff who claims to have suffered injury from a direct competitor's 'unfair' act or practice invokes [Business and Professions Code] section 17200, the word 'unfair' in that section means conduct that threatens an incipient violation of an antitrust law, or violates the policy or spirit of one of those laws because its effects are comparable to or the same as a violation of the law, or otherwise significantly threatens or harms competition." (*Cel-Tech, supra*, 20 Cal.4th at p. 187, fn. omitted.) In a footnote, however the high court held that this new definition does not apply to consumer cases, stating in part: "This case involves an action by a competitor alleging anticompetitive practices. Our discussion and this test are limited to that context. Nothing we say relates to actions by consumers or by competitors alleging other kinds of violations of the unfair competition law such as 'fraudulent' or 'unlawful' business practices or 'unfair, deceptive, untrue or misleading advertising.'"(*Id.* at p. 187, fn. 12.)

Nevertheless, some post-*Cel-Tech* state appellate decisions have held that the new *Cel-Tech* test applies even to consumer cases. In *Schnall v. Hertz Corp.* (2000) 78 Cal.App.4th 1144, which involved a class action brought by a car renter under the UCL against a car rental corporation, the Court of Appeal noted that "[t]he *Cel-Tech* court required 'that any finding of unfairness to competitors under [Business and

Professions Code] section 17200 be tethered to some legislatively declared policy or proof of some actual or threatened impact on competition[]' [citation]" (*Schnall, supra*, 78 Cal.App.4th at p. 1166, fn. omitted), and stated that the *Schnall* plaintiff's UCL claim, "unlike that in *Cel-Tech*, does not pertain to unfair competition between direct competitors. Nonetheless, accepting the suggestion of *Cel-Tech* that *any* claims of unfairness under the UCL should be defined in connection with a legislatively declared policy, we find such a test satisfied in this case." (*Schnall, supra*, at p. 1166.)

In *Gregory, supra*, 104 Cal.App.4th at page 854, the Court of Appeal apparently agreed with the *Schnall* court, stating that "*Cel-Tech* ... may signal a narrower interpretation of the prohibition of unfair acts or practices in *all* unfair competition actions ...." (Second italics added.) The *Gregory* court also stated that "where a claim of an unfair act or practice is predicated on public policy, we read *Cel-Tech* to require that the public policy which is a predicate to the action must be 'tethered' to specific constitutional, statutory or regulatory provisions." (*Gregory*, supra, at p. 854.)

We need not decide which test or definition of the term "unfair" applies in the instant case. We conclude that, regardless of which applies, Bernardo failed to substantiate her claim that Planned Parenthood's Web site speech constituted an "unfair" business practice or act within the meaning of the UCL. Bernardo points to no legislative policy, or to any public policy "tethered" to any specific constitutional, statutory or regulatory provision, which was allegedly offended or violated by Planned Parenthood's speech. In her reply brief, Bernardo continues to argue that she has "detailed a long list of specific *factual* representations [by Planned Parenthood] that are *false*." (Italics added.) For

reasons already discussed, we have rejected Bernardo's contention that Planned Parenthood's Web site statements concerning the claimed ABC link were "factual representations" because her own evidence shows that those statements were expressions of *opinion* regarding a disputed issue that is the subject of an ongoing scientific debate between proponents of Bernardo's view that induced abortion increases the risk of breast cancer, and proponents of Planned Parenthood's position that credible scientific evidence does not establish such a link. The court properly found that "the very fact that [Bernardo's experts] recognize and discuss the contrary opinions in their declarations shows that the issue of whether induced abortions increase the risk of breast cancer is far from being a foregone scientific conclusion."

Furthermore, the authenticated photocopies of Planned Parenthood's Web pages submitted by Bernardo show that PPFA explained to visitors of the Anti-Choice Claims Web page that there are two opposing views on the claimed ABC link. That Web page contained a review of some of the many studies of the alleged ABC link published during the past 20 years, including studies that support Bernardo's position that such a link exists, such as Brind's meta-analysis (see fn. 4, *ante*) and Daling's study published in the *Journal of the National Cancer Institute* (see fn. 5, *ante*). The Web page included a "Works Cited" bibliography that cited 32 published studies on the ABC link issue, including Brind's meta-analysis, Daling's study, and others works that supported Bernardo's position on the ABC link. In addition, the Web page explained the ABC link theory that Bernardo advocates: "The theory linking pregnancy termination and breast cancer is based on the hormonal disruption that occurs when a woman's pregnancy is interrupted. Pregnancy initiates a surge of sex hormones (estrogen, progesterone, and prolactin), which leads to differentiation of the cells in the

breast glands in preparation for lactation. ... Adherents of this theory claim that interruption of the first trimester of a first pregnancy causes a cessation of cell differentiation that may result in a subsequent increase in the risk of cancerous growth in these tissues."

The unfairness prong of Business and Professions Code section 17200 "'has been used to enjoin deceptive or sharp practices. ...' [Citation.]" (*Klein v. Earth Elements, Inc., supra*, 59 Cal.App.4th at p. 970, italics added.) Based on the foregoing evidence submitted by Bernardo regarding PPFA's statements in its Anti-Choice Claims Web page concerning the school of thought on the ABC link issue to which Bernardo subscribes and which PPFA strenuously rejects, we conclude she failed to show that PPFA engaged in "deceptive or sharp" practices that may be enjoined under the UCL, and she failed to meet her burden of showing a reasonable probability of prevailing on her claim that Planned Parenthood's Web site speech on the ABC link issue was an "unfair" practice or act within the meaning of the UCL.

iii. *"Fraudulent" business practice or act*

To establish that Planned Parenthood's speech constituted a "fraudulent" business act or practice within the meaning of Business and Professions Code section 17200, Bernardo is required to " 'show that "members of the public are likely to be deceived."' " (*Nike, supra*, 27 Cal.4th at p. 951; *Shvarts v. Budget Group, Inc., supra*, 81 Cal.App.4th at pp. 1159-1160.)

Here, Bernardo has not shown, and cannot show, that members of the public are likely to be deceived into procuring an abortion or any other service provided by Planned Parenthood or one of its affiliates based on the Web site

speech that Bernardo seeks to enjoin. Regarding the ABC link issue, PPFA's Anti-Choice Claims Web page informed visitors that there are two schools of scientific research with opposing points of view on the issue of whether an induced abortion increases the risk of breast cancer. That Web page discussed Bernardo's point of view as well as Planned Parenthood's position and provided citations to all published studies and articles referenced therein, including those that supported Bernardo's position, thereby providing all interested visitors the means to independently view both sides of the controversy for themselves. Although Bernardo claims that Planned Parenthood's statements comparing mortality rates of abortion and childbirth were false and misleading because they did not factor in deaths resulting from the abrogation of the "protective effect" caused by termination of pregnancy via induced abortion and resulting in breast cancer deaths, Bernardo's own evidence shows that PPFA expressly acknowledged in its Anti-Choice Claims Web page that "[i]t is known that having a full-term pregnancy early in a woman's childbearing years is *protective against breast cancer*" (italics added); PPFA stated in its Choosing Abortion Web page that "abortion does not offer the same *protection against breast cancer* as a full term pregnancy" (italics added); and PPSDRC stated in its Abortion Info Web page that "abortion does not offer the *protection against breast cancer* that having several full-term pregnancies does" (italics added). We conclude that Bernardo failed to meet her burden of showing a reasonable probability of prevailing on the merits of her claims that Planned Parenthood's speech was likely to deceive members of the public and that it constituted a fraudulent business act or practice within the meaning of the UCL.

b. *FAL*

"California's false advertising law ([Bus. & Prof. Code,] § 17500 et seq.) makes it 'unlawful for any person, ... corporation ..., or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services ... or to induce the public to enter into any obligation relating thereto, to make or disseminate ... before the public in this state, ... in any newspaper or other publication ... or in any other manner or means whatever ... any statement, concerning that real or personal property or those services ... which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading ....' ([Bus. & Prof. Code,] § 17500.)" (*Nike, supra*, 27 Cal.4th at p. 950.)

The *Nike* court explained that "to state a claim under either the UCL or the false advertising law, based on false advertising or promotional practices, 'it is necessary only to show that "members of the public are likely to be deceived."' [Citations.]" (*Nike, supra*, 27 Cal.4th at p. 951.)

We have already concluded that Bernardo failed to show a reasonable probability of prevailing on the merits of her claims that Planned Parenthood's challenged Web site speech is commercial or that its statements concerning the claimed ABC link and the safety of abortion are false, misleading or deceptive representations of fact that are actionable under Business and Professions Code sections 17200 and 17500. **(8)** Were we to assume that Planned Parenthood's speech could properly be characterized as advertising actionable under Business and Professions Code section 17500, we would conclude that Bernardo failed to show a reasonable probability of prevailing on the merits of her FAL claim because for reasons discussed, *ante*, her own evidence established she

failed to meet her burden of showing a reasonable probability of prevailing on the merits of her claim that Planned Parenthood's speech was likely to deceive members of the public.

3. *Claim that the court improperly evaluated Bernardo's evidence*

Bernardo contends the court "engaged in an improper evaluation of [her] prima facie showing by repeatedly weighing the credibility of her experts and the comparative probative strength of competing evidence when addressing [her] claims." Bernardo also complains the court "repeatedly viewed evidence in the light least favorable to [her] claims," "rejected [her] evidence by characterizing [Planned Parenthood's] statements as education, not advertising or statements made in connection with an offer of services, and as no more than statements of opinion." Bernardo maintains that the court's "improper evaluation" of her prima facie showing produced erroneous legal conclusions, such as the court's conclusion that Planned Parenthood's Web site statements were not unlawful, unfair, or fraudulent.

Bernardo's contentions are moot. As already discussed, we independently review the order granting Planned Parenthood's motion to strike the complaint under the anti-SLAPP statute under a de novo standard of review (*Kajima Engineering & Construction, Inc. v. City of Los Angeles, supra*, 95 Cal.App.4th at p. 929). We thus independently decide whether the granting of that motion was correct, but we need not decide whether the court's reasoning in granting that motion was proper.

For reasons already discussed, we have concluded that Bernardo's own evidence in opposition to Planned

Parenthood's anti-SLAPP motion to strike shows that she did not, and could not, state and substantiate a legally sufficient claim under either the UCL or FAL, and thus she failed to demonstrate a probability of prevailing as required by section 425.16(b)(1) and case law interpreting that subdivision. (See *Navellier, supra*, 29 Cal.4th at p. 88.) Accordingly, we need not, and do not, address the specifics of Bernardo's contention that the court improperly evaluated her prima facie showing.

4. *Claim that application of section 425.16 violated Bernardo's constitutional rights*

Last, Bernardo contends that "if the [court's] application of [section 425.16] is correct, then the statute violates [her] First Amendment and Due Process rights." Bernardo apparently maintains that the court's granting of Planned Parenthood's motion to strike her complaint under the anti-SLAPP statute violated her First Amendment right to petition the government for redress of grievances by filing her lawsuit under the UCL and FAL. Bernardo also asserts that due process is a "concept which voids laws that are vague or overbroad as well as those that deprive citizens of their rights without adequate notice," and complains that the court "employed a standard that could never be predicted in advance--one that essentially required [her] to predict with certainty the way in which the Court would view her evidence and the way in which the Court would resolve questions of fact and law." Specifically, she maintains that *section 425.16* violates her due process rights because "the 'reasonable probability of success on the merits' standard is meaningless in practice," and she complains that she "has been barred from the courts of [California] based on a standard that, if properly applied in this case, bars all litigants but those that can predict the future."

We reject Bernardo's contention that application of the anti-SLAPP statute violated her First Amendment rights. The California Supreme Court has explained that "'[t]he right to petition is not absolute, providing little or no protection for baseless litigation' [citation]." (*Equilon, supra*, 29 Cal.4th at p. 64.) Here, Bernardo does not dispute that Planned Parenthood met its threshold burden under section 425.16(b)(1) of showing that Bernardo's claims against Planned Parenthood for injunctive relief under the UCL and FAL arose from protected activity. The court properly took judicial notice of the fact that abortion is one of the most controversial political issues in our nation. Because Bernardo's complaint challenged Planned Parenthood's Web site speech concerning the claimed ABC link and the risks involved in abortion procedures, as Planned Parenthood argued in its motion papers, Planned Parenthood met its burden of showing that Bernardo's suit arose from "written ... statement[s] ... made in a place open to the public or a public forum in connection with an issue of public interest" within the meaning of section 425.16, subdivision (e)(3) discussed, *ante*. For reasons already discussed, Bernardo failed to meet her burden under section 425.16(b)(1) of stating and substantiating a legally sufficient claim (see *Navellier, supra*, 29 Cal.4th at pp. 88-89). By properly finding that Bernardo's lawsuit was a SLAPP and dismissing it under section 425.16, the court did not interfere with her First Amendment free speech or petitioning rights. The California Supreme Court has explained that the anti-SLAPP statute "subjects to potential dismissal only those causes of action as to which the plaintiff is unable to show a probability of prevailing on the merits (§ 425.16, subd. (b)), a provision we have read as 'requiring the court to determine only if the plaintiff has stated and substantiated a legally sufficient claim' [citation]. So construed, 'section 425.16 provides an efficient means of dispatching, early on in a lawsuit, [and discouraging, insofar

as fees may be shifted,] a plaintiff's *meritless* claims.' [Citation.]" (*Equilon, supra*, 29 Cal.4th at p. 63, italics added.) The anti-SLAPP statute did not prevent Bernardo from bringing a meritorious claim; it properly prevented her from continuing to prosecute her meritless SLAPP suit. The application of section 425.16 in this matter did not violate Bernardo's First Amendment rights.

We also reject Bernardo's contention that the "reasonable probability of success on the merits" standard under section 425.16 is both meaningless and a violation of her right to due process. As already discussed, the California Supreme Court has explained that in order to establish the requisite probability of prevailing required by section 425.16(b)(1),[16] a plaintiff "need only have '"stated and substantiated a legally sufficient claim."' [Citation.] 'Put another way, the plaintiff "must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited."' [Citation.]" (*Navellier, supra*, 29 Cal.4th at pp. 88-89.) This standard is sufficient for due process purposes to put a plaintiff like Bernardo on adequate notice as to the burden that must be met under section 425.16(b)(1) to defeat a motion to strike brought under the anti-SLAPP statute.

In sum, the gravamen of Bernardo's action against Planned Parenthood was (1) her unsubstantiated assertion that the ABC link is an established scientific fact, and (2) her unsubstantiated claim that Planned Parenthood published on its Web sites commercial speech consisting of false and

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[16] The text of section 425.16(b)(1) is set forth in footnote 11, *ante*.

misleading statements of fact about the safety of abortion, the safety of abortion vis- [agrave] -vis childbirth, and the scientific and medical literature that Bernardo believes has established the existence of the ABC link that should be enjoined under the UCL and FAL and replaced by speech to be published on Planned Parenthood's own Web sites, pursuant to a mandatory injunction, that would have expressed her view that the claimed ABC link is an established scientific fact.

We hold that the dismissal of Bernardo's action under the anti-SLAPP statute was proper on the ground she failed to meet her statutory burden under section 425.16 of showing a reasonable probability of prevailing on the merits of her claims for injunctive relief because (1) her own evidence demonstrated that Planned Parenthood's statements about the claimed ABC link were noncommercial expressions of opinion about an issue of genuine scientific debate that were fully protected under the First Amendment and thus not actionable under either the UCL or FAL; (2) her challenge to Planned Parenthood's statements regarding the safety of abortion failed as a matter of law because this challenge was based on the unsubstantiated premise that the claimed ABC link is an established scientific fact; and (3) she failed to show a reasonable probability of prevailing on the merits of her claims that Planned Parenthood's speech, assuming it consisted of commercial statements of fact, was unlawful, unfair or fraudulent within the meaning of the UCL or constituted false advertising within the meaning of the FAL. We also hold that the dismissal of her action under the anti-SLAPP statute did not violate her First Amendment or due process rights.

Because the claimed link between abortion and breast cancer is a public health issue about which scientific

researchers and public health advocates in good faith have disagreed, the proper resolution of this appeal requires application of the fundamental public-speech principle enunciated by the United States Supreme Court that "[u]nder the First Amendment there is no such thing as a false idea. However pernicious an *opinion* may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas." (*Gertz v. Robert Welch, Inc.* (1974) 418 U.S. 323, 339-340, italics added, fn. omitted.) Here, Planned Parenthood's Web site speech interpreting, evaluating and discussing the content and weight of the scientific literature addressing the claimed ABC link represents the kind of rigorous debate on issues of public concern that the First Amendment was designed to promote and protect.

II.

BERNARDO'S APPEAL FROM THE MANDATORY ATTORNEY FEES AWARD UNDER SECTION 425.16(c)

Bernardo separately appeals the court's order awarding attorney fees to Planned Parenthood in the amount of $77,835.25 under the mandatory fees provision set forth in section 425.16(c).[17] Bernardo contends that section 425.16(c) is unconstitutional on its face and as applied, asserting the attorney fees award levied against her is a penalty that violates

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[17] Section 425.16(c) provides: "In any action subject to subdivision (b), *a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs*. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to *Section 128.5*." (Italics added.)

her constitutional right to (1) petition the government for redress of grievances and access the courts by filing litigation; (2) due process; and (3) equal protection. We reject these contentions.

A. *Standard of Review*

"The interpretation of a statute and the determination of its constitutionality are questions of law. In such cases, appellate courts apply a de novo standard of review. [Citation.]" (*People v. Health Laboratories of North America, Inc.* (2001) 87 Cal.App.4th 442, 445 (*Health Laboratories*).)

B. *Analysis*

1. *First Amendment and right to petition*

Claiming that the mandatory award of attorney fees levied against her under section 425.16(c) is a "fine" and a "draconian penalty," and asserting that "[t]he State of California cannot penalize litigants for bringing suits regarded as unlikely to succeed," Bernardo contends that section 425.16 violates her First Amendment rights to petition and access the courts because it imposes a penalty and "liability for fees" without requiring a showing that the suit is objectively frivolous. In support of this contention, Bernardo cites several United States Supreme Court and California Supreme Court decisions for the proposition that, as a general First Amendment principle, the law cannot impose penalties or tort liability for filing a lawsuit absent a showing that the suit is objectively groundless.[18]

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[18] Bernardo cites, for example, *Professional Real Estate Investors, Inc. v. Columbia Pictures Indus., Inc.* (1993) 508 U.S.

Bernardo's arguments are based on the unsupported premise that the anti-SLAPP statute's fee shifting provisions "penalize" or impose "liability" on plaintiffs whose complaints are dismissed under section 425.16. In *Equilon, supra*, 29 Cal.4th 53, the California Supreme Court held that a defendant moving to strike a cause of action under section 425.16 on the ground it is a SLAPP need not show that the plaintiff brought the action with the subjective intent of chilling the defendant's exercise of constitutionally protected speech or petitioning activity. (*Equilon, supra*, 29 Cal.4th at pp. 57, 68.) In arguing that an intent-to-chill proof requirement was a constitutionally compelled element of the anti-SLAPP statutory scheme, the plaintiff in *Equilon* asserted that the *First Amendment* generally bars "liability" for filing lawsuits that are not "shams." (*Equilon, supra, at p. 62.*) Noting that "[h]undreds of California statutes provide for an award of attorney fees to the prevailing party [citations]" (*Equilon, supra*, 29 Cal.4th at p. 62), the *Equilon* court rejected that argument and stated that fee shifting under section 425.16(c) "does not make a party 'liable' for filing a lawsuit, but rather simply requires the party that creates the costs to bear them." (*Equilon, supra*, at p. 62.) The high court also rejected the argument that the anti-SLAPP statute's fee-shifting provisions unconstitutionally "punish" plaintiffs, explaining that "[p]laintiffs as well as defendants may recover fees: defendants ... only when the plaintiff burdens free speech with an unsubstantiated claim [citation]; plaintiffs whenever a defendant's motion to strike is 'frivolous or is

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49, 60-61; *Bill Johnson's Restaurants, Inc. v. NLRB* (1983) 461 U.S. 731, 741; *Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc.* (1986) 42 Cal.3d 1157, 1169; and *Pacific Gas and Electric Co. v. Bear Stearns & Co.* (1990) 50 Cal.3d 1118.

solely intended to cause unnecessary delay' (§ 425.16(c))." (*Equilon, supra*, 29 Cal.4th at p. 63.)

The Supreme Court's reasoning in *Equilon* is equally applicable here. By providing for a mandatory award of attorney fees in favor of a defendant who prevails on a motion to strike under the anti-SLAPP statute, section 425.16(c) does not punish, penalize, or impose "liability" on the SLAPP plaintiff. The fee shifting simply requires the plaintiff, as the party whose SLAPP suit caused the defendant to incur attorney fees and other costs, to bear those fees and costs. (*Equilon, supra*, 29 Cal.4th at p. 62.) In this regard, Bernardo correctly acknowledges in her appellant's opening brief that the fee award under section 425.16(c) "is designed to *compensate* defendants for the cost of defending the suit ...." (Italics added.)

Our conclusion that the court's award of attorney fees in favor of Planned Parenthood under section 425.16(c) did not violate Bernardo's constitutional right to petition the government for redress of grievances is also compelled by this court's decision in *Schroeder v. Irvine City Council (2002)* 97 Cal.App.4th 174 (*Schroeder*). In *Schroeder*, the plaintiff, a taxpayer, sued a city, its city council and several city council members, seeking injunctive relief and a declaration that the city's program to increase voter registration was an illegal expenditure of public funds. (*Id.* at p. 179.) The defendants moved to dismiss the action under the anti-SLAPP statute. The trial court granted the motion, finding that the plaintiff had failed to show a reasonable probability of success on the merits, and awarded attorney fees to the defendants as the prevailing parties under section 425.16(c). (*Schroeder, supra*, 97 Cal.App.4th at p. 179.) On appeal, the plaintiff challenged the dismissal of the lawsuit and also challenged the attorney fee award on the grounds that a mandatory attorney

fee award against a taxpayer who has challenged a governmental program would unconstitutionally infringe upon his or her right to petition the government for redress of grievances. (*Id.* at p. 193.) We rejected the plaintiff's constitutional challenge to the fee award, and held that "[t]he right to petition for redress of grievances includes the right to sue [citation] private as well as governmental entities. [Citation.] However, 'the right to petition has never been absolute' [citation] and 'baseless litigation is not immunized by the First Amendment right to petition.' [Citation.] ... [C]onstitutional rights to petition have been subjected to reasonable restrictions to prevent abuse of the right, and narrowly drawn restrictions on that right can be valid. " (*Schroeder, supra*, at p. 195.)

In *Schroeder*, we recognized that "the government is injured by meritless suits, that the right to petition does not provide an absolute immunity to citizens who bring meritless suits, and the Legislature may by statute grant governments the ability to recoup their attorney fees.... [T]he right to petition may be subject to legislatively imposed conditions and restrictions, provided the restrictions are narrowly drawn to achieve a substantial governmental interest that is content neutral and unrelated to the suppression of the exercise of First Amendment rights. ... [T]he Legislature may provide for an award of attorney fees to governmental entities for defending against frivolous lawsuits without impermissibly infringing on the right of petition for redress of grievances." (*Schroeder, supra*, 97 Cal.App.4th at p. 196.) We concluded that the mandatory attorney fee provision set forth in section 425.16(c) "is valid because it seeks to achieve a substantial governmental interest that is content neutral and unrelated to the suppression of the exercise of First Amendment rights and is narrowly tailored to achieve that interest. There is a substantial governmental interest in deterring unmeritorious

lawsuits generally, and that interest assumes greater weight in the arena governed by section 425.16[(c)]: unmeritorious lawsuits that can chill the defendant's exercise of First Amendment rights. Although [plaintiff] argues that the statute is designed to suppress protected activity--his right to sue the government--we conclude the statute is primarily designed to *promote and encourage* protected conduct--the right of defendants to exercise their First Amendment rights without fear of unmeritorious SLAPP lawsuits." (*Schroeder, supra*, 97 Cal.App.4th at p. 196, original italics.) We further held that the attorney fee clause of section 425.16 passes constitutional muster because it "applies to all unmeritorious lawsuits premised on acts taken in furtherance of the defendant's constitutional rights of petition or free speech, regardless of the point of view espoused by the plaintiff. It applies only to that narrow category of lawsuits ... that are premised on acts taken in furtherance of the defendant's rights of speech, and leaves untouched any other type of lawsuit. ... Finally, it is closely tailored to achieve these substantial governmental interests because it has no application to most lawsuits ... but instead applies only to lawsuits in which two narrow conditions are satisfied: first, the court must be satisfied that the lawsuit seeks recovery for acts taken in furtherance of the defendant's rights of free speech or petition; and second, the lawsuit must be so lacking in merit that, even when the evidence is viewed most favorably to the plaintiff, the plaintiff cannot prevail as a matter of law." (*Schroeder, supra*, at p. 197.)

2. *Due Process*

Bernardo also claims that section 425.16(c) violated her due process rights in two ways. First, she repeats her contentions that "the 'reasonable probability of success on the merits' language is unconstitutionally vague," this standard is

"meaningless in practice," and "[t]he net result of the standard imposed by [section 425.16] is to require [her] to predict the inherently unpredictable under pain of *penalty* in the form of attorney fees." (Italics added.) For the reasons discussed, *ante*, we have already concluded that the "reasonable probability of success on the merits" standard codified in section 425.16(b)(1) (see fn. 11, *ante*), as interpreted by the California Supreme Court (see *Navellier, supra*, 29 Cal.4th at pp. 88-89), is not unconstitutionally vague and thus the court's application of that standard in this matter did not violate Bernardo's right to due process. As already discussed, the Supreme Court has held that the section 425.16(c) fee-shifting provision that Bernardo challenges here does not unconstitutionally "punish" plaintiffs whose SLAPP causes of action are subject to dismissal for failure to show a probability of prevailing on the merits. (*Equilon, supra*, 29 Cal.4th at p. 63.) The fee shifting under section 425.16(c) "simply requires the party that creates the costs to bear them." (*Equilon, supra*, 29 Cal.4th at p. 62.)

Second, Bernardo contends the mandatory fee shifting provision of section 425.16(c) violates due process because it does not require a showing of fault, such as a reckless disregard for the truth, supported by a heightened evidentiary standard, such as clear and convincing evidence, that she claims is required to impose "damages," "liability," a "fine," or a "draconian penalty" in the form of a fee award for activity that involves the exercise of fundamental First Amendment rights, such as the right to pursue litigation. As already discussed, however, the California Supreme Court has held that "'[t]he right to petition is not absolute, providing little or no protection for baseless litigation' [citation]." (*Equilon, supra*, 29 Cal.4th at p. 64.) Bernardo's contention is based on the unsupported premise that she had a fundamental First Amendment right to bring a SLAPP against

Planned Parenthood. Bernardo has cited no authority, and we are aware of none, that supports her implied assumption that a litigant has a fundamental constitutionally-protected right to file a SLAPP suit.

3. *Equal Protection*

Last, Bernardo contends that the mandatory fee shifting provision of section 425.16(c) violates her right to equal protection of laws because it "creates an unconstitutional penalty" and imposes fee liability for "the exercise of First Amendment rights that discriminates between parties based on the nature of their First Amendment activity and the nature of the plaintiff." Specifically, Bernardo maintains that (1) the "statutory language and purpose" indicate that section 425.16(c) and its attorney fees provision are designed to "favor a defendant's First Amendment rights to speech over a plaintiff's First Amendment right to petition and access courts"; and (2) section 425.16, subdivision (d) (hereafter § 425.16(d), discussed, *post*) "creates impermissible classifications based upon the identity of the plaintiff as either a public or private attorney general." We reject these contentions.

"The Equal Protection Clause of the Fourteenth Amendment commands that no State shall 'deny to any person within its jurisdiction the equal protection of the laws,' which is essentially a direction that all persons similarly situated should be treated alike. [Citation.]" (*Cleburne v. Cleburne Living Center, Inc.* (1985) 473 U.S. 432, 439.)

"Although most statutes differentiate somehow between classes of people, the equal protection clause does not forbid classifications. [Citation.] So long as the classification is not arbitrary but is based on some difference in the classes having

a substantial relation to a legitimate object to be accomplished, Legislatures may make reasonable classifications of persons, businesses and activities. [Citation.] [¶] The equal protection clause of the California Constitution similarly states that a person 'may not be denied equal protection of laws' (Cal. Const., art. I, § 7), and statutory classifications challenged thereunder are analyzed by the same rules applicable to challenges to the Fourteenth Amendment. [Citations.]" (*Health Laboratories, supra*, 87 Cal.App.4th at pp. 447-448.)

The *Health Laboratories* court further explained that "[l]egislative classifications are presumed valid and will be sustained if the classification is rationally related to a legitimate state interest. Most statutes challenged on equal protection grounds are tested by this rational basis standard. [Citation.] Only when the classification jeopardizes the exercise of a fundamental right or categorizes on the basis of an inherently suspect characteristic is the statute subject to the heightened review employed in strict scrutiny test. [Citation.] To pass constitutional muster in that case, such statutes must be suitably tailored to serve a compelling state interest. [Citation.] For purposes of the strict scrutiny test, a fundamental right means a fundamental constitutional right. [Citation.]" (*Health Laboratories, supra*, 87 Cal.App.4th at p. 448.)

As already discussed, the California Supreme Court has held that the mandatory section 425.16(c) fee-shifting provision does not unconstitutionally "punish" or impose "liability" on plaintiffs whose SLAPP causes of action are subject to dismissal for failure to show a probability of prevailing on the merits. (*Equilon, supra*, 29 Cal.4th at p. 63.)

Bernardo complains that section 425.16(c) "provides differing liability for fees based upon the nature of petitioning activity" because under that subdivision a plaintiff is liable for mandatory fees without any showing of fault if the defendant prevails, but a defendant is liable for fees only upon a showing that the defendant's motion to strike is frivolous or solely intended to cause delay. Bernardo asserts that the court's award of attorney fees in favor of Planned Parenthood in this matter violated her right to equal protection because the result of the application of the section 425.16(c) mandatory fee provision is "to punish the plaintiff's exercise of the fundamental right to petition the courts by creating a cost not born[e] by opponents in litigation," and "the statute, in effect, makes the courts available to different parties, on different terms, depending upon the nature of their petitioning activity."

These assertions are unavailing. There is no fundamental First Amendment right to petition the courts by filing a SLAPP. As already discussed, the California Supreme Court has explained that "'[t]he right to petition is not absolute, providing little or no protection for baseless litigation' [citation]." (*Equilon, supra*, 29 Cal.4th at p. 64.) Furthermore, the mandatory fee shifting provision of section 425.16(c) does not bar Bernardo or any other plaintiff from bringing a meritorious claim. Contrary to Bernardo's assertion, section 425.16(c) does not make the courts "available to different parties, on different terms, depending upon the nature of their petitioning activity."

We also reject Bernardo's contention that the anti-SLAPP statute unconstitutionally discriminates against her by refusing her the "immunity" accorded to public prosecutors under section 425.16(d), which provides: "This section shall not apply to any enforcement action brought in the name of the

people of the State of California by the Attorney General, district attorney, or city attorney, acting as a *public prosecutor*." (Italics added.)

Bernardo claims that she brought this action for injunctive relief against Planned Parenthood on behalf of the public, without seeking any personal gain, and the effect of section 425.16(d) "is to create a discrimination against private parties advancing the public interest that is inimical" to her constitutionally protected right to equal protection of the law.

This claim is unavailing. In *Health Laboratories, supra*, 87 Cal.App.4th at page 451, the Court of Appeal held that the provision of the anti-SLAPP statute exempting public prosecutors from its strictures does not violate the equal protection clauses (U.S. Const., 14th Amend., § 1; Cal. Const., art. I, § 7). The *Health Laboratories* court noted that "SLAPP suits are typically characterized as suits brought not to vindicate a legal right but to interfere with the defendant's ability to pursue his or her interest. [Citation.] SLAPP plaintiffs do not care so much about winning their lawsuits as they care about delaying and distracting the defendant from his or her objective, which is generally economically adverse to those of the SLAPP plaintiff. SLAPP plaintiffs achieve their goal if their suits deplete the defendant's resources and energy. [Citations.] The legislative history of section 425.16 plainly implies that its purpose was to prevent the harm caused by such plaintiffs." (*Health Laboratories, supra*, 87 Cal.App.4th at p. 450.)

The *Health Laboratories* court also noted that, "[b]y contrast, a public prosecutor's enforcement action is not motivated by a retaliatory attempt to gain a personal advantage over a defendant .... *The prosecutor's motive derives from the constitutional mandate to assure that the laws*

of the state are uniformly enforced and to prosecute any violation of these laws, so that order is preserved and the public interest protected. [Citations.]" (*Health Laboratories, supra*, 87 Cal.App.4th at p. 450, italics added.) The court explained that "[n]othing in the legislative history of section 425.16 implies that the problem the Legislature sought to rectify thereby was created by prosecutors bringing meritless enforcement actions. The state may properly limit a regulation to the class of persons as to whom it thinks the need for regulation is more crucial or imperative. [Citation.] [¶] To enable prosecutors to perform their constitutional duties thoroughly and effectively, laws have been enacted to insulate them from actions that would hinder or deter their enforcement actions. ... [¶] The exclusion of public prosecutors from the anti-SLAPP motion procedure is consistent with the rationale of these immunity statutes. Subjecting them to such a procedure could unduly hinder and undermine their efforts to protect the health and safety of the citizenry at large by delaying an enforcement action. Not only would prosecutors have to respond to the motion at the trial level, they could become ensnared in an appeal, insofar as the grant or denial of a SLAPP motion is immediately appealable. (§ 425.16, subd. (j).) False advertising enforcement actions could be particularly susceptible to delay by the moving manufacturer's easy assertion that the prosecutor's action interfered with its commercial free speech rights." (*Health Laboratories, supra*, 87 Cal.App.4th at pp. 450-451.)

A *private* plaintiff bringing suit under the UCL or FAL allegedly on behalf of the public is not similarly situated to a public prosecutor because the private litigant's motive, unlike that of a public prosecutor, does not derive "from the constitutional mandate to assure that the laws of the state are uniformly enforced and to prosecute any violation of these laws, so that order is preserved and the public interest

protected" (*Health Laboratories, supra*, 87 Cal.App.4th at p. 450). We conclude that the classification created by section 425.16(d)'s exemption of public prosecutors' enforcement actions from anti-SLAPP motions does not jeopardize the exercise of a fundamental right or categorize litigants on the basis of an inherently suspect characteristic; it is rationally related to the state's legitimate interest in allowing public prosecutors who did not create the SLAPP problem to pursue actions to enforce laws, unencumbered by delay, intimidation, or distraction; and thus it does not violate the equal protection clause of either the United States or California Constitution.

DISPOSITION

The orders are affirmed. Planned Parenthood shall recover its costs and attorney fees on appeal. (*Dove Audio, Inc. v. Rosenfeld, Meyer & Susman* (1996) 47 Cal.App.4th 777, 785; *Dowling, supra*, 85 Cal.App.4th at p. 1434.) The cause is remanded to the trial court for a determination of the amount of reasonable attorney fees and costs Planned Parenthood shall recover from Bernardo under the provisions of section 425.16(c).

McIntyre, J., and O'Rourke, J., concurred.

APPENDIX C

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

CASE NO. 772552

[Filed July 19, 2002]

AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY HAWKINS, individually and on behalf of the GENERAL PUBLIC, Plaintiffs,	)
v.	)
PLANNED PARENTHOOD FEDERATION OF AMERICA and PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES, Defendants.	)

ORDER

JUDGE: Ronald S. Prager

The Defendant's MOTION TO STRIKE under Code of Civil Procedure Section 425.16 in the above entitled matter came on regularly for hearing by the Honorable Judge Ronald

S. Prager on March 18, 2002, at the Superior Court of the State of California for the County of San Diego. Having considered arguments on March 18, 2002, the Honorable Judge Ronald S. Prager renders the following decision:

As to the MOTION TO STRIKE under Code of Civil Procedure Section 425.16 (Strategic Lawsuits Against Public Participation or "SLAPP") filed by Defendants PLANNED PARENTHOOD FEDERATION FO AMERICA and PLANNED PARENTHOOD OF SAN DIEGO and RIVERSIDE COUNTIES against the complaint of Plaintiffs AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY HAWKINS, individually and on behalf of the GENERAL PUBLIC, the Court grants the MOTION TO STRIKE and, consequently, dismisses the complaint with prejudice.

The Defendant's MOTION FOR ATTORNEYS FEES under Code of Civil Procedure Section 425.16 in the above entitled matter came on regularly for hearing by the Honorable Judge Ronald S. Prager on June 14, 2002, at the Superior Court of the State of California the County of San Diego. Having considered arguments on June 14, 2002, the Honorable Judge Ronald S. Prager renders the following decision:

As to the MOTION FOR ATTORNEYS FEES under Code of Civil Procedure Section 425.16 filed by Defendants PLANNED PARENTHOOD FEDERATION OF AMERICA and PLANNED PARENTHOOD OF SAN DIEGO and RIVERSIDE COUNTIES against Plaintiffs AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY HAWKINS, individually and on behalf of the GENERAL PUBLIC, the Court grants the MOTION FOR ATTORNEYS FEES.

IT IS HEREBY ORDERED, adjudged and decreed that Defendants have judgment in their favor and be accorded the following:

(1) Defendants' attorneys fees incurred prior to the Court's order granting the Defendant's MOTION TO STRIKE on March 18, 2002, calculated by the lodestar adjustment method in the amount of $42,528.14; multiplied by 1.75 as adequate compensation for the contingent nature of the fee award; for a sum of attorneys fees to Defendants in the amount of $74,424.25.

(2) Defendant's attorneys fees incurred subsequent to the Court's order granting the Defendant's MOTION TO STRIKE on March 18, 2002, calculated by the lodestar adjustment method in the amount of $3,411.00; for a sum of attorneys fees to Defendants in the amount of $3,411.00.

(3) TOTAL SUM of attorneys fees to Defendants in the amount of $77,835.25.

July 19, 2002
DATE

/s/
JUDGE OF THE SUPERIOR COURT
RONALD S. PRAGER

JAMES E. McELROY, State Bar No. 079313
LAW OFFICES OF JAMES E. McELROY
625 Broadway, Suite 1400
San Diego, CA 92101

(619) 232-6686

Attorney for DEFENDANTS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

CASE NO. 772552

AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY HAWKINS, individually and on behalf of the GENERAL PUBLIC, Plaintiffs,	)
v.	)
PLANNED PARENTHOOD FEDERATION OF AMERICA and PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES, Defendants.	)

NOTICE OF ENTRY OF JUDGMENT
[CCP § 664.5]

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

NOTICE IS HEREBY GIVEN THAT judgment was entered in this action on July 19, 2002, as set forth in the signed Order attached hereto Exhibit A.

DATED: 11/4/02 LAW OFFICES OF JAMES E. McELROY

By: /s/
JAMES E. McELROY
Attorney for Defendants

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

Title of Case
BERNARDO v. PLANNED PARENTHOOD

JAMES E. McELROY (619) 232-6686
LAW OFFICES OF JAMES E. McELROY, APC
625 Broadway, Suite 1400
San Diego, CA 92101

Attorney for Defendants Hearing date/time/dept.

Case No. GIC 772552

DECLARATION OF SERVICE

I, STEPHANIE SESE, declare that: I am over the age of eighteen years and not a party to the action; I am employed in the County of San Diego, California and my business address is 625 Broadway, Suite 1400, San Diego, CA 92101. I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service pursuant to which practice the correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business.

On November 4, 2002 I served the following documents(s):

NOTICE OF ENTRY OF JUDGMENT (dated 11/4/02)
ORDER (dated 7/19/02)

on the parties as follows:

STUART E. FAGAN, ESQ., FAGAN & FAGAN, 3110 Camino Del Rio South, Suite 203 San Diego, CA 92108 Fax: (619) 528-9675

THOMAS MORE LAW CENTER, PATRICK T. GILLEN, JOHN KINDLEY, 3475 Plymouth Road, Suite 100, Ann Arbor, Michigan 48105 Fax: (734) 998-4778

_____ (BY FACSIMILE) By faxing a copy thereof.

XX (BY MAIL) By placing a copy thereof in a separate, sealed envelope for each addressee and with the postage thereon fully prepaid, either deposited each in the United States Postal Service or placed each for collection and mailing at San Diego, California, following ordinary business practices.

_____ (PERSONAL SERVICE) By leaving a copy thereof with the above named person or an officer or agent of the person.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 4, 2002

/s/
STEPHANIE SESE

APPENDIX D

SUPERIOR COURT OF THE STATE OF CALIFORNIA
INAND FOR THE COUNTY OF SAN DIEGO

CASE NO 772552

[Filed July 19, 2002]

AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY HAWKINS, individually and on behalf of the GENERAL PUBLI C, Plaintiffs,	)
v.	)
PLANNED PARENTHOOD FEDERATION OF AMERICA and PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES, Defendants.	)

ORDER

JUDGE: RONALD S. PRAGER

The Defendant's MOTION TO STRIKE under Code of Civil Procedure Section 425.16 in the above entitled matter

came on regularly for hearing by the Honorable Judge Ronald S. Prager on March 18, 2002, at the Superior Court of the State of California for the County of San Diego. Having considered arguments on March 18, 2002, the Honorable Judge Ronald S. Prager renders the following decision:

As to the MOTION TO STRIKE under Code of Civil Procedure Section 425.16 (Strategic Lawsuits Against Public Participation or "SLAPP") filed by Defendants PLANNED PARENTHOOD FEDERATION FO AMERICAN and PLANNED PARENTHOOD OF SAN DIEGO and RIVERSIDE COUNTIES against the complaint of Plaintiffs AGNES BERNARDO, PAMELA COLIP, AND SAUNDRA DUFFY HAWKINS, individually and on behalf of the GENERAL PUBLIC, the Court grants the MOTION TO STRIKE and, consequently, dismisses the complaint with prejudice.

The Defendant's MOTION FOR ATTORNEYS FEES under Code of Civil Procedure Section 425.16 in the above entitled matter came on regularly for hearing by the Honorable Judge Ronald S. Prager on June 14, 2002, at the Superior Court of the State of California for the County of San Diego. Having considered arguments on June 14, 2002, the Honorable Judge Ronald S. Prager renders the following decision:

As to the MOTION FOR ATTORNEYS FEES under Code of Civil Procedure Section 425.16 filed by Defendants PLANNED PARENTHOOD FEDERATION OF AMERICA and PLANNED PARENTHOOD OF SAN DIEGO and RIVERSIDE COUNTIES against Plaintiffs AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY HAWKINS, individually and on behalf of the GENERAL

PUBLIC, the Court grants the MOTION FOR ATTORNEYS FEES.

IT IS HEREBY ORDERED; adjudged and decreed that Defendants have judgment in their favor and be accorded the following:

(1) Defendants' attorneys fees incurred prior to the Court' s order granting the Defendant' s MOTION TO STRIKE on March 18, 2002, calculated by the lodestar adjustment method in the amount of $42,528.14; multiplied by 1.75 as adequate compensation for the contingent nature of the fee award; for a sum of attorneys fees to Defendants in the amount of $74,424.25.

(2) Defendant's attorneys fees incurred subsequent to the court's order granting the Defendant's MOTION TO STRIKE on March 18, 2002, calculated by the lodestar adjustment method in the amount of $3,411. O0; for a sum of attorneys fees to Defendants in the amount of $3,411.00.

(3) TOTAL SUM of attorneys fees to Defendants in the amount of $77,835.25.

July 19, 2002
DATE

RONALD S. PRAGER
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

Title of Case
BERNARDO v. PLANNED PARENTHOOD

JAMES E. McELROY (619) 232-6686
LAW OFFICES OF JAMES E. McELROY, APC
625 Broadway, Suite 1400
San Diego, CA 92101

Attorney for Defendants Hearing date/time/dept.

Case No. GIC 772552

DECLARATION OF SERVICE

I, JUDITH MADSON, declare that: I am over the age of eighteen years and not a party to the action; I am employed in the County of San Diego, California and my business address is 625 Broadway, Suite 1400, San Diego CA 92101. I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service pursuant to which practice the correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business.

On July 25, 2002 I served the following documents(s):

ORDER (dated July 19,2002)

on the parties as follows:

STUART E. FAGAN, ESQ., FAGAN & FAGAN, 3110 Camino Del Rio South, Suite 202 San Diego, CA 92108 Fax: (619) 528-9675

THOMAS MORE LAW CENTER, PATRICK T. GILLEN, JOHN KINDLEY, 3475 Plymouth Road, Suite 100, Ann Arbor, Michigan 48105 Fax: (734) 998-4778

_____ (BY FACSIMILE) By faxing a copy thereof.

__XX__ (BY MAIL) By placing a copy thereof in a separate, sealed envelope for each addressee and with the postage thereon fully prepaid, either deposited each in the United States Postal Service or placed each for collection and mailing at San Diego, California, following ordinary business practices.

_____ (PERSONAL SERVICE) By leaving a copy thereof with the above named person or an officer or agent of the person.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 25, 2002

/s/_____
JUDITH MADSON

APPENDIX E

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

[Filed June 14, 2002]

NUMBER	COMPLAINT DATE	HEARING DATE
GIC772552	08-15-01	06-14-02

HEARING TIME	DEPT.
03:00 PM	69

JUDGE/COMMISSIONER
HON. RONALD S. PRAGER

CLERK
CLARA BANKS

REPORTER
N/R
P.O. BOX 120128, SAN DIEGO, CA 92112-0128

PLAINTIFF/PETITIONER
AGNES BERNARDO, et al.

DEFENDANT/RESPONDENT
PLANNED PARENTHOOD FEDERATION OF A

ATTORNEY FOR PLAINTIFF/PETITIONER
STURART E. FAGAN

ATTORNEY FOR DEFENDANT/RESPONDENT
JAMES E. MCELROY (1)

1. DEFENDANT ATTY'S FEES/TELEPHONIC

The Court rules on defendants Planned Parenthood of America and Planned Parenthood of San Diego and Riverside Counties' (collectively, "Defendant") motion for attorney's fees under CCP section 425.16(c) as follows:

The Court grants the motion, as Defendant is entitled to an award of attorney's fees under 425.16(c).

Plaintiffs argue that the Court should not award attorney's fees because such an award in this case would be contrary to the purpose of the statute and would violate Plaintiffs' constitutional rights. Neither of these arguments has merit. First, the Court has no discretion as to whether or not to award attorney's fees against Plaintiffs given that Defendants prevailed on their ANTI-SLAPP motion, which renders such an award mandatory pursuant to CCP section 425.16 (c) (A prevailing defendant ... shall be entitled to recover his or her attorney's fees and costs.") (emphasis added); see also Ketchum v. Moses, 24 Cal.4th 1122, 1131 (2001). In addition, Plaintiffs' due process rights have not been violated since they received notice of this motion and opposed it. American Humane Association v. Los Angeles Times Communs., 92 Cal. App.4th 095 (2001).

As to the amount of the award itself, the Court agrees with Defendants that under the loadstar-adjustment method and taking into account the contingency risk taken by counsel for Defendants in agreeing to represent them, an enhancement or multiplier is called for.

The Court began its loadstar analysis by examining the compilation of time spent and the reasonable hourly compensation of each attorney involved in the presentation of the case. See Ketchum, supra, at 1132. In this regard, the Court further notes that Defendants filed numerous declarations showing that the billing rates of Defendants' attorneys were within those charged by equally competent attorneys in the community. See declarations of Shannon R. Nugent; Abby B. Silverman; Dara Klassel; Monty A. McIntyre; Stephanie Sontag and James E. McElroy. Church of Scientology v. Wollershein, 42 Cal. App.4th 628 (1996). In examining the billing records, the Court saw no "padding" in any form. Exhibits attached to Declaration of James E. McElroy. Therefore, the basic fee (specifically, $45,939.00)of Defendants' counsel seems fair and reasonable.

As noted above, however, the Court finds that a multiplier under the loadstar-adjustment method is called for in light of the novelty and difficulty of the questions involved, which the Court founds quiet complex in that they involved serious and highly debatable scientific issues and epidemiological medical evidence. In addition, a multiplier is also called for in light of the contingent nature of the fee award. Declaration of James E. McElroy, ¶ 5. In this Court's view (and especially given that Plaintiffs sought no damages in this case but only the infringement of Defendants' right to voice their views on the highly controversial issue of whether abortion increases a woman's chance of developing breast cancer), Defendants' counsel should be compensated for the risk they took in

defending Defendants' right to exercise their First Amendment right of freedom of speech on such a highly political issue. Ketchum, supra, at 1132-33.

Therefore, the Court multiplies the basic fee by a reasonable 1.75 to adequately compensate Defendants' counsel for the risk they took. Therefore the total amount of attorney's fees awarded is $77,835.25. In the Court's opinion, this amount reflects the fair market value of the services rendered. The Court notes that Defendants' counsel is not seeking a fee enhancement on the $3,411 in attorney's fees incurred after this Court rendered its decision. See Defendants' Supporting Memorandum, at page 8, footnote 1.

However, the Court notes that Defendants have presented no authority supporting the proposition that Plaintiffs' counsel should be held liable either solely or jointly and severally for the award, whether or not Plaintiffs are judgment proof. Therefore, Defendants' request that the Court impose the award on Plaintiffs' counsel is denied.

Should Plaintiffs wish to present oral argument, they shall file and serve with the Court by noon on June 18, 2002, a two-page letter brief (1)identifying the issues to be argued and (2) stating a -summary of the arguments to be presented on each issue. The opposing party shall file and serve by 4:00 p.m. on June 19, 2002, a two-page letter brief responding to the arguments. If the Court receives the letter brief requesting oral argument by the above deadline, oral argument is scheduled for June 21, 2002 at 1:15 p.m.

IT IS SO ORDERED.

APPENDIX F

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

[Filed March 18, 2002]

NUMBER	COMPLAINT DATE	HEARING DATE
GIC772552	08-15-01	03/18/02

HEARING TIME	DEPT
03:00 PM	69

JUDGE/COMMISSIONER	CLERK
HON. RONALD S. PRAGER	CLARA BANKS

REPORTER
N/R
P.O. BOX 120128, SAN DIEGO, CA 92112-0128

PLAINTIFF/PETITIONER
AGNES BERNARDO, et al.

DEFENDANT/RESPONDENT

PLANNED PARENTHOOD FEDERATION OF A

ATTORNEY FOR PLAINTIFF/PETITIONER
STUART E. FAGAN

ATTORNEY FOR DEFENDANT/RESPONDENT
JAMES E. MCELROY(1)

1. DEFENDANT SLAPP\TELEPHONIC

STATEMENT OF DECISION: The Court rules and provides this Statement of Decision on the motion to strike under CCP section 425.16 (strategic lawsuits against public participation or SLAPP) filed by defendants Planned Parenthood Federation of America (PPFA) and Planned Parenthood of San Diego and Riverside Counties (collectively, "Defendants") against the Complaint of Agens Bernardo, et al. (collectively, "Plaintiffs") as follows:

The Court grants themotion to strike and, consequently, dismisses the complaint with prejudice under CCP section 425.16,

CCP section 425.16.(b)(1) provides that:

> A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

To prevail on a SLAPP motion, the defendant must first show that the plaintiff's suit arises from the defendant's exercise of his or her right of free speech or right of petition in connection with a public issue (the first prong of the test). CCP § 425.16(b)(1); Dixon v. Superior Court, 30 Cal. App.4th 733, 742 (1994). Once the defendant makes that showing, the plaintiff must establish that he or she has a reasonable probability of prevailing on the claims (the second prong of the test). Id.; see, e.g., Dupont Merck Pharmaceutical Company v. Superior Court, 78 Cal. App.4th 562, 565-66 (2000).

The Court finds that Defendants have demonstrated that the instant lawsuit arises from Defendants' exercise of their right of free speech on a public issue, and have therefore met the first prong of the test.

This finding is based on the allegations asserted by Plaintiffs in their unverified Complaint that Defendants' acts and practices (specifically their publications/statements and/or alleged advertisements on their Internet websites (World Wide Web) regarding the issue of abortion) violate Business & Professions Code Section 17200, et seq. and section 17500, et seq. because the statements and alleged advertisements are "unlawful, unfair, confusing and misleading." Complaint, ¶ 23; see also Complaint, ¶¶ 1-22.

CCP section 425.16(e) provides that:

> As used in this section, "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue" includes: ... (3) any written or oral statement or writing made in a place open to the public

> or a public forum in connection with an issue of public interest; (4) or any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest. (emphasis added)

In this regard, Plaintiffs do not argue in their Opposition Memorandum, that Defendants' websites are not public forums or that abortion is not a public issue. Therefore, there is no dispute that Defendants' websites constitute "writing[s] made in a place open to the public or a public forum," and constitute "conduct in furtherance of the exercise of the constitutional right of free speech," as Defendants' websites are open to the public and anyone with Internet access can visit them. There is also no dispute that the issue of abortion is one of the most highly charged public issues of our time. It is therefore proper for the Court to grant Defendants' request that the Court take judicial notice of the fact that abortion is a controversial issue. Evidence Code section 451(f). Indeed, issues regarding reproductive health have long been recognized as constituting matters of public interest entitled to First Amendment protection. Bigelow v. Virginia, 421 U.S. 809, 822 (1975).

Plaintiffs' contention is that Defendants have not satisfied the first prong of the test because their statements do no constitute "protected activity," as "only commercial speech which is 'truthful and nonmisleading' receives legal protection," citing case law. Plaintiffs' Memorandum of Points and Authorities in Opposition, at 2:13-16. This precise issue, however, was expressly addressed in DuPont, supra, where the court recognized that in making this argument, "plaintiffs are placing the cart before the horse." The court further noted that "[w]hether or not [the] statements are true should be

considered in the second part of the analysis .... " Dupont, 78 Cal. App.4th at 566. Therefore, Plaintiffs' argument that Defendants have not shown that their statements are "protected activity" is without merit. Defendants have met the first prong of the test.

With regard to the second prong, Plaintiffs bear the burden of establishing that there is a reasonable probability that they will prevail on the claims. In other words, Plaintiffs must present a sufficient prima facie showing of facts to sustain a favorable

judgment if the evidence they submitted is credited. Wilcox v. Superior Court, 27 Cal. App.4th 809, 823-24 (1994). In addition, "section 425.16 places an added burden on the plaintiff to meet the defendant's constitutional defenses." Id. at 824. This means that Plaintiffs must demonstrate that Defendants' purported constitutional defenses are not applicable as a matter of law or provide evidence of facts which, if accepted by a fact finder, would negate such defenses. Id.; Paul for Council v. Hanvecz, 85 Cal. App.4th 1356, 1367 (2001) (emphasis added). And while the Court is not allowed to weigh the evidence in determining this motion (Wilcox, 27 Cal. App.4th at 823), the "court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based." CCP § 425.16(b)(2); see also Dixon v. Superior Court, 30 Cal.App.4th 733, 742 (1994).

In reviewing the pleadings, the Court notes that Plaintiffs' Complaint is entitled "Complaint for Injunctive Relief" and alleges two causes of action: the first under Business & Professions Code ("B&P") section 17200 et seq., and the second under B&P section 17500 et seq. (the "UCL"). As a remedy, Plaintiffs seek three injunctions: the first, to restrain Defendants from "making untrue or misleading statements ...

including the statements that abortion is safe and/or that it is safer than childbirth; the second, to restrain Defendants and their agents from performing abortions unless they provide certain information (specifically, information which states Plaintiffs' views and the views of their experts regarding induced abortions and the risk of cancer) prior to scheduling and/or accepting payment for abortion-related services; and the third, to require Defendants to provide a notice to patients who have received an abortion from doctors working at PPFA's affiliated clinics that they have an increased risk of developing cancer. Complaint, ¶¶ 1-3, at page 19-20.

In reviewing the nature of these injunctions, the Court cannot ignore that the first would result in a prior restraint of speech (which injunctions are generally impermissible, Paradise Hills Associates v. Procel, 235 Cal. App.3d 1528, 1539 (1991)), and that the last two constitute mandatory injunctions, which are very rarely granted, especially in the area of speech, as such injunctions may result in the violation of a defendant's First Amendment rights. U.S. Dep't of Agriculture v. United Foods. Inc., 121 S. Ct. 2334, 2338 ("The First Amendment may ... prevent the government from compelling individuals to express certain views"); Pacific Gas and Electric v. Public Utilities Comm'n of California, 475 U.S. 1, 7 (1986) (government may not compel a corporation to provide a forum for views with which it disagrees). Indeed, unlike prohibitory injunctions, mandatory injunctions are automatically stayed by the filing of an appeal, Kettenhofen v. Superior Court, 55 Cal.2d 189, 191 (1961).

Therefore, the Court must determine whether Plaintiffs have a reasonable probability of prevailing on their section 17200 and 17500 claims and thereby obtain the kinds of injunctions that they seek.

Plaintiffs argue that they have submitted a prima facie case supporting their causes of action under B&P sections 17200 et seq. and 17500 et seq. However, a careful review of the admissible evidence (see below) submitted by Plaintiffs shows otherwise.

With regard to Plaintiffs, claim that Defendants' websites are "unlawful" under section 17200 (see Complaint, ¶ 23), the Court notes that Plaintiffs have failed to state which statute, regulation or law (whether federal, State or common law) Defendants have allegedly violated. Plaintiffs have also failed to provide evidence showing any "unlawful" activity or practice. Therefore, the Court finds that Plaintiffs have failed to meet their burden of showing a probability of prevailing on their claims of "unlawfulness."

Plaintiffs have also failed to present sufficient evidence to establish a probability of prevailing on their claim that Defendants' websites constitute an "unfair" business practice under section 17200. With regard to the definition of"unfair" under the UCL, the Court notes that the law is unclear as to which definition of "unfair" applies in consumer cases post Celtech Communications, Inc. v. Los Angeles Cellular Telephone Company, 20 Cal.4th 163 (1999). See Schall v. The Hertz Corporation, 78 Cal.App.4th 1144, 1166-67 (2000) (stating that "any claims of unfairness under the UCL should be defined in connection with a legislatively declared policy"); But cf.Shvarts v. Budget Group, 81 Cal. App.4th 1153 (2000) (applying the "old" unfairness test). The "old" unfairness test appears to have two parts and requires the court to consider "the utility of Defendants' conduct against the gravity of the harm to the alleged victim" (Motors, Inc. v. Times Mirror Co., 102 Cal. App. 735, 740 (1980)), and/or to consider whether the alleged unfair practice "offends an established public policy "or is "immoral, unethical,

oppressive, unscrupulous or substantially injurious to consumers" (People v. Casa Blanca Convalescent Homes, Inc., 159 Cal.App.3d 509, 530 (1984)). With regard to the instant case, the Court finds that regardless of which test the Court applies, the result is the same: Defendants' practices and/or statements regarding abortion on their websites are not "unfair."

First, a review of the declaration of Plaintiffs' primary expert, Joel L. Brind, Ph.D. ("Dr. Brind") shows that, while he himself is a major proponent (if not the originator) of Plaintiffs' views (specifically, that induced abortions increase the risk of breast cancer in women (the "ABC Link")), Dr. Brind's declaration also shows that there is an on-going debate in the scientific community regarding this issue. His declaration, and those of Plaintiffs' other experts (Plaintiffs' Exhibits nos. 5 (at paragraph 16), 6 (at paragraphs 20-27), no. 7 (at paragraphs 23-25), no. 8 (at paragraphs 61-70), and no. 9 (at paragraphs 12-15)), also show that there are other experts in the field, who vehemently disagree with Dr. Brind's position. And while Dr. Brind and Plaintiffs' other experts attempt to discredit these experts' contrary opinions by openly criticizing and disagreeing with the data and scientific studies upon which these experts rely, the very fact that they recognize and discuss the contrary opinions in their declarations shows that the issue of whether induced abortions increase the risk of breast cancer is far from being a foregone scientific conclusion.

Indeed, while critical of the National Cancer Institute, one if not the most widely respected institutes championing the cause of curing cancer, Plaintiffs' own expert, Dr. Lanfranchi, acknowledges that position statement of the National Cancer Institute on this issue is contrary to her views. Plaintiffs' Exhibit 6 (Declaration of Angela Lanfranchi, M,D., ¶ 26).

Further still, another one of Plaintiffs' experts, Dr. Jose Bufill, provides evidence that there is a raging scientific debate on the issue, expressly stating that that "[tlwo schools define the scientific debate regarding the association of induced abortion with subsequent development of breast cancer" (emphasis added). Dr. Bufill then proceeds to discuss the groups' rationale for their positions. Plaintiffs' Exhibit 8 (Declaration of Jose Bufill, M.D., ¶ 61).

Thus, the Court need not even consider, much less weigh, the declarations of Defendants' experts on the ABC link issue in order to determine that it is a subject of heated debate among interested scientists everywhere.

Second, a fair review of the copies of Defendants' web pages that were submitted by Plaintiffs demonstrates that the information set forth therein on abortion, its risks and benefits, including the risk of breast cancer, are supported by references to scientific studies, which corroborate those very conclusions. For example, Plaintiffs have submitted a publication entitled "Anti-Choice Claims About Abortion and Breast Cancer," that appears on Defendants' websites. A review of this article shows that it is a comprehensive, historical review of the scientific literature on the issue of abortion and breast cancer.

While pointing out that "there is an absence of compelling evidence associating induced abortion with a woman's risk of developing breast cancer," Defendants state that "anti-choice extremists insist on making the connection anyway." Defendants then proceed to discuss the issue, noting that the association was first made in the 17th century "when breast cancer was noted to be more prevalent," and even discuss the basis of the theory linking pregnancy termination with breast cancer. Plaintiffs' Exhibit 10, at 000025. Further, while

Defendants' publication states that the studies on the link between abortion and breast cancer are "inconclusive," even this conclusion is supported by multiple references to nationally-recognized authorities, such as the National Cancer Institute, the American Cancer Society, and major universities. Exhibit 10, at 000026.

It therefore appears that Defendants have not failed to disclose that there are numerous studies that support Plaintiffs' position that induced abortions increase a woman's risk of breast cancer. Indeed, Defendants' publication includes a discussion of Dr. Brind's studies and those of others scientist who opine that there is such a link. Exhibit 10, at 000027. Defendants' websites even provide the citations to these studies, thereby enabling consumers to locate and read the studies for themselves.

The title to the last paragraph of the publication is also very telling. It states as follows: "The Planned Parenthood Position is that Abortion Poses No Demonstrated Health Risks," again referring to the link between induced abortion and breast cancer. Exhibit 10, at 000029 (emphasis added). In so doing, Defendants are clearly informing consumers that the position stated constitutes Defendants' opinion or position on the subject.

Plaintiffs nonetheless argue that Defendants' websites are deceptive for the reasons discussed by their experts (see Plaintiffs' Exhibits" nos. 4-9) and because Defendants' statements fail to recognize an undisputable medical fact, i.e., the protective effect against breast cancer that a full-term pregnancy provides. However, Plaintiffs themselves acknowledge that to the direct question of"[d]oes abortion cause breast cancer," Defendants' response is "No. But abortion does not offer the same protection against breast

cancer as a full term pregnancy." Plaintiffs' Surreply, at 1:8-10, citing Plaintiffs' Exhibit 10, at 00035; see also, Exhibit 10, at 000038. Therefore, contrary to Plaintiffs' argument, Defendants do acknowledge the protective effect which a full term pregnancy provides. However, that Defendants also do not believe abortion poses a health risk to women "because the research community has not reached a consensus on breast cancer and abortion," does not mean that Defendants' statements are "unfair," false, misleading or deceptive.

Plaintiffs argue that their claims arise from false and misleading statements of facts—not opinions. Among the challenged statements are the statements that "abortion is eleven times safer than carrying a pregnancy to term . . ." and that "abortion is about twice as safe as having your tonsils out and is safer than childbirth." Plaintiffs' Surreply at 1:1-7. However, Plaintiffs' basis for claiming that these statements are false is centered on the position that abortion causes breast cancer. Id. at 1:12-15 ("Plaintiffs have presented abundant evidence that the Defendants' statements of fact are false because induced abortion does cause breast cancer and, as a result, abortion is not safer than childbirth."). But, again, the Court cannot ignore Plaintiffs' own evidence, which undeniably shows that there are two camps of thought on this issue and that Defendants' statement that there is no consensus in the scientific community on this issue is supported by numerous scientific studies, and apparently by Plaintiffs' own experts. Plaintiffs' Exhibit 10, at 000030-32; Plaintiffs' Exhibit 8 (Declaration of Jose Bufill, M.D., ¶ 61).

In sum, without weighing any of the evidence, but rather focusing solely on Plaintiffs' evidence, the Court can only conclude that Defendants, acts and practices regarding their

statements on the risks and benefits of abortion vis-a-vis childbirth and the ABC Link are "fair," as opposed to "unfair," under the UCL. The statements do not offend any established policy that the Court is aware of, including a legislatively declared policy (see Schall, supra, possibly the "new" "unfairness" test), and Plaintiffs have not identified any such policy as the basis of their claim. In addition, taking Plaintiffs' evidence as a whole, the Court finds that Defendants' statements are not "immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers" (People v. Casa Blanca Convalescent Homes, Inc., 159 Cal.App.3d 509, 530 (1984) (one of the "old" "unfairness" test)).

As to "the utility of Defendants' conduct against the gravity of the harm to the alleged victim," (the other "old" "unfairness" test, see Motors, Inc., supra), the Court notes that Defendants' websites provide useful information regarding abortion to consumers interested in terminating a pregnancy as well as information regarding reproductive health in general. Plaintiffs' Exhibit 10, at 0001, 0003-0008. Also significant is that Defendants' websites expressly provide that "[u]se of this site signifies your agreement to our terms of use and privacy statements." Plaintiffs' Exhibit 10, at 0001. And while Plaintiffs do not provide Defendants' terms of use, the Court may consider this evidence in determining whether Plaintiffs have a probability of prevailing, i.e., whether Plaintiffs' evidence negates Defendants' First Amendment defense of free speech. CCP § 425.16 (b)(2) (the "court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based." CCP § 425.16(b)(2) (emphasis added); see also Dixon v. Superior Court, 30 Cal.App.4th 733,742 (1994)).

Defendants terms and conditions of use provide as follows: "Planned Parenthood Federation of America is pleased toprovide you with the resources on this site for your personal education, but nothing on this Site constitutes a recommendation for medical care, nor does PPFA make a warranty of any kind in terms of their appropriateness for individual on-line users." Defendants' Exhibit 2 (emphasis added). A visitor to Defendants' Websites therefore agrees that their use of the site is for educational purposes only and the websites, as discussed above, do provide a wealth of information on a variety of reproductive-health issues, including references to articles and publications which disagree with Defendants, stated position on the issue of the health risks of abortion. In light of this, the Court finds that, in considering "the gravity of the harm to the alleged victim," Defendants' websites are not an "unfair" practice or act, as the gravity of the harm, if any, is slight, and the users of the websites can hardly be characterized as "alleged victim(s)."

Moreover, Defendants' argument regarding causation is also well taken. Defendants argue that there is no casual link between Defendants' websites and any harm to its visitors because all visitors to Defendants' websites must see a physician before they can obtain an abortion, and because the physician has a duty to inform his patients of the risks involved in any procedure, including abortion. Defendants are correct. Arato v. Avedon, 5 Cal.4th 1172, 1191 (1993) ("A physician ... evaluates the patient's ..... decisional needs against a background of professional understanding that includes a knowledge of what information beyond the significant risks associated with a given treatment would be regarded by the medical community as appropriate for disclosure under the circumstances."). In fact, Plaintiffs' evidence shows that Defendants recognize that visitors interested in treatments or procedures relating to reproductive

health must see a physician to obtain the procedure and answers to their medical questions. Plaintiffs' Exhibit 10, at 00015 ("For medical questions, or to schedule an appointment ...."), and at 000021 ("Ask a Clinician, Make an appointment" (underscoring indicating a web (hyper) link).

In sum, this case is not an "ordinary" consumer case, as visitors cannot simply purchase an abortion by pushing a virtual button and supplying their credit card number. There is a significant intervening factor involved, i.e. the patient's doctor. Further, the fact that Defendants make it easy for the visitor to make an appointment witha doctor through one of their affiliated clinics by providing an "800", telephone number or a web (hyper) link, or even location information to PPFA's affiliates is itself further evidence that visitors to Defendants' websites are not immediately and necessarily "victimized" by their exposure to the information on abortion presented in Defendants' websites.

Neither are Defendants' practices and/or statements false, deceptive or misleading under the UCL's third prong ("fraudulent business practice"). In order to prevail on this claim, Plaintiffs must present evidence of fraudulent conduct by Defendants, which is likely to deceive members of the public. Bank of West v. Superior Court, 2 Cal.4th 1254, 1267 (1992). Plaintiffs have failed to present evidence that Defendants' statements are deceptive and misleading, when Defendants' websites expressly acknowledge the protective effect of full term pregnancies, discuss the theory of the possible link between abortion and breast cancer and go as far as providing the visitor with the necessary information to further research that position. Had Defendants' websites failed to mention Dr. Brind's studies and those of like-minded scientists, then perhaps Plaintiffs' position would have more merit. But, Plaintiffs' very evidence shows that Defendants

have not hidden the contrary position, but only that Defendants present arguments criticizing the results of the studies postulating the ABC Link, and consequently questioning their validity. See, e.g., Day v. AT&T Corp., 63 Cal. App. 4th 325, 332 (1998) ("A perfectly true statement couched in such a manner that is likely to mislead or deceive the consumer, such as by failure to disclose other relevant information is actionable ....") (emphasis added). Here, in contrast, Defendants did not fail to disclose any of the relevant information.

In sum, Defendants' criticisms of Dr. Brind's studies and those of others advocating the existence of the ABC Link represent the very kind of rigorous debate on issues of public concern that the First Amendment was designed to foster and protect. Plainly put, Defendants are completely within their First Amendment right of free speech to express a position or state views on scientific issues that currently form the subject of heated debate in the community, especially when the position being expressed is supported by numerous published studies specifically addressing the point, and such highly regarded institutes, such as the National Cancer Institute. Plaintiffs' Exhibit 10, at 00018, 000030. Indeed, a review of Dr. Brind's declaration shows that he too exercises his First Amendment right of expressing critical views on studies whose results are contrary to his own (Declaration of Joel L. Brind, Ph.D., Plaintiffs' Exhibit 4, ¶¶ 25-27) and upon which Defendants rely in concluding that the theory of induced abortion and breast cancer "has not been borne out by research." Plaintiffs' Exhibit 10, at 000029.

In sum, while Plaintiffs insist that their complaint is based on Defendants' "false and misleading statements of facts," the basis of this claim is Defendants' refusal to accept as true the position that an induced abortion "causes" breast cancer.

Plaintiffs' Surreply in Opposition, at 11-14. However, even Dr. Brind does not go as far-as to state that a causal link has been conclusively proven, but simply that the evidence, in his opinion, is "overwhelming." Declaration of Joel L. Brind, Ph.D., Plaintiffs' Exhibit 4, ¶ 40. Moreover, the Court cannot ignore the numerous expert declarations submitted by Defendants' experts who disagree with Dr. Brind, and while the Court has not weighed this evidence, these declarations also underscore the existence of an ongoing scientific debate on this subject. See Supplemental Declaration of Polly A. Newcomb, Ph.D., ¶¶ 1-3.

Lastly, with regard to Plaintiffs' claims of false advertising under both sections 17200 and 17500 et seq., the Court finds that Plaintiffs have not shown a probability of prevailing on these claims either. To prevail, Plaintiffs must present evidence that members of the public are likely to be deceived by Defendants' statements. Committee on Children's Television v. General FoodsCorp, 35 Cal.3d 197. 211 (1983). But, again, Plaintiffs' evidence does not show a probability of such deception.

First, with regard to the definition of "advertisement," the Court recognizes that it is very broad such that virtually any statement made in connection with the sale of a product or service is "advertisement." Recently, however, the California Supreme Court stated that most published opinions have interpreted advertising" to require "widespread promotional activities directed to the public at large" Bank of West v. Superior Court, 2 Cal.4th 1254, 1276-1277 n.9 (1992).

Plaintiffs allege that Defendants' statements about abortion constitute "advertisement" primarily because "[a]cess to the location of health centers and to sexual health information is provided on virtually every page, including the pages

containing Defendants' statements about the safety of abortion ...." Plaintiffs further argue that "PPFA's role in the delivery of services via "Planned Parenthood" clinics follows from its nature as a 'federation' of affiliated clinics. Plaintiffsthereafter describe Defendants' websites as "thoroughgoing marketing system" such that "[t]here is no question that the Defendants' statements are made in connection with their offer of abortion services." Plaintiffs' Memorandum in Opposition, at 7-8.

In this regard, the Court finds that Defendants' statements (Plaintiffs' Exhibit 10 (copies of Defendants' web pages)) cannot be construed as pure commercial speech or pure advertisement. For example, page 00001 of Plaintiffs' Exhibit 10 shows that Defendants expressly request both monetary ("Support Planned Parenthood DONATE ONLINE") and political ("Sign the Petition for Choice") support for their position on abortion. Further, as noted above, Defendants' visitors agree to their terms of use, which expressly state the websites are for educational purposes only. The publication stating Defendants' view on the issue of whether there is conclusive evidence showing the ABC Link is in the form of an educational article, which ostensiblyreviews the scientific literature onthe subject. In fact, Defendants' websites contain numerous informative articles or "fact sheets" on a broad spectrum of reproductive health issues as well as their attendant legal issues. Plaintiffs' Exhibit 10, at 00007.

Further, according to Plaintiffs themselves, eventhe short statements about the safety of abortion upon which Plaintiffs have predicated their complaint constitute "statements of facts." Plaintiffs' Surreply, at 1. But, while statements of fact can be used as or in "advertisements," in light of the political and educational context of Defendants' websites, the Court finds that Defendants' statements are not made in connection with an offer to sell abortion services, are not "promotional"

of abortion and/or do not propose a "commercial transaction." See Bank of the West, supra; Board of Trustees of the State Univ. of New York v. Fox, 492 U.S. 469 (1989). Rather, Defendants' statements strike the Court as being educational and/or informative in nature, as opposed to advocating and or "advertising" (in the sense of inducing or offering a financial transaction) abortion services.

The fact that Defendants' websites also contain web (hyper) links to other sites, "800" telephone numbers and location information regarding their affiliate clinics that do provide abortion services does not automatically transform Defendants' statements into abortion "advertisement."

But, even accepting for purposes of argument, that Defendants' websites do contain advertisement regarding abortion services, the Court finds that Defendants' statements have both commercial and noncommercial aspects such that they must be treated as fully protected under the First Amendment. Riley v. National Federation of the Blind, 487 U.S. 781,795-96 (1988);

Moreover, even if the Court were to conclude that Defendants' statements are pure commercial speech, the Court finds that the purported advertisements are not false, misleading or deceptive for the reasons noted above. Lastly, Plaintiffs have not shown a probability that they will prevail and prove that the public is likely to be deceived by Defendants' statements given Defendants' terms of use as educational (see above). Further, the fact that visitors of Defendants' websites must see a doctor, who is required to obtain their informed consent, before performing any abortion procedure, makes it unlikely that the patients willbe deceived.

Therefore, giving full weight and credit to Plaintiffs' evidence, the Court finds that Plaintiffs have not demonstrated that Defendants' purported constitutional defenses are not applicable as a matter of law or provide evidence of facts which, if accepted by a fact finder, would negate such defenses. Wilcox v. Superior Court, 27 Cal. App.4th 809, 823-24 (1994); Paul for Council v. Hanyecz, 85 Cal. App.4th 1356, 1367 (2001) (emphasis added).

Lastly, the Court notes that Plaintiffs have not shown a probability of prevailing on obtaining the specific injunctions that they seek, in particular the mandatory injunctions. This is because were the Court to force Defendants to make the statements Plaintiffs propose and/or to provide notice to patients of doctorsaffiliated with PPFA of the alleged increase of risk cancer associated with abortion (see Plaintiffs' Complaint, prayer for relief, ¶¶ 1-3, at pages 19-20), the Court is likely to interfere with the doctor/patient relationship in view of the standard of care in the Southern California community regarding abortion.

Defendants have presented the declarations of various well-recognized physicians in the County of San Diego, who opine that the standard of care in California is not to inform patients of the alleged link between abortion and breast cancer. Declaration of David B. Preskill, M.D., ¶ 8 ("[I]t is my professional medical opinion that the applicable standard of care in the Southern California medical community is not to tell an abortion candidate that there is an increased risk of breast cancer as a result of an elective procedure. To inform a patient that such a risk exists, as part of the informed consent process, might unduly alarm the patient, unnecessarily distress an already anxious patient and would quite simply be inaccurate."); see also Declaration of Steven Drosman, M.D., ¶ 9.

Plaintiffs have offered contrary expert declarations, but a close reading of these declarations show that these experts do not directly state that the standard of care in Southern California is to inform patients about the alleged increased cancer risk. For example, one of Plaintiffs' experts simply states her opinion that "whether a given risk must be disclosed should not be determined by the custom in the medical community but by the known medical literature and the patients' right to self-determination." Declaration of Angela Lanfranchi, M.D., ¶ 24. In addition, Defendants' objections to the declarations of Plaintiffs' experts, namely Joel L. Brind, Ph.D., Chris Kahlenborn, M.D., Angela Lanfranchi, M.D., Elizabeth Shadigian, M.D., Jose Bufill, M.D., Jane Anderson, M.D., and Elizabeth Shadigian, M.D. are sustained regarding their statements on the standard of care regarding abortion information in the Southern California community.

Defendants object to these declarations on the grounds that the doctors do not perform abortions and do not practice medicine in Southern California such that they are not qualified to opine on the standard of care in Southern California regarding informed consent from a patient seeking abortion. In this regard, the Court notes that Dr. Brind is not a medical doctor, but a biologist (Decl., ¶ 2), Dr. Kahlenborn practices internal medicine, not gynecology (Decl., ¶ 2), Dr. Lanfranchi is a surgeon and family practitioner (Decl., ¶ 2), Dr. Bufill is an oncologist and hematologist (Decl., ¶¶ 3-4), Dr. Anderson is a pediatrician (Decl., ¶ 2), and while Dr. Shadigian is a gynecologist, she does not state that she provides abortion services.

Therefore, given the lack of contrary evidence, the Court must conclude that the standard of care in Southern California is not to provide the information on abortion and cancer that

Plaintiffs' injunctions seek. Further, putting aside the issue that mandatory injunctions (especially in the area of speech) are seldom, if ever, granted (see above), were the Court to issue Plaintiffs' injunctions, it would, in effect, result in judicial intervention in the doctor/patient relationship. Issuing the injunctions would also place the Court in the questionable position of requiring the dissemination of one-sided information on this highly controversial issue, which may run contrary to the information actually givento individual patients by their physicians based on the patients' decisional needs, and in so doing, may cause harm to the patients. Arato v. Avedon, 5 Cal.4th 1172, 1191 (1993) ("A physician ... evaluates the patient's decisional needs against a background of professional understanding that includes a knowledge of what information beyond the significant risks associated with a given treatment would be regarded by the medical community as appropriate for disclosure under the circumstances.")(emphasis added).

Lastly, the Court notes that it appears that Plaintiffs are attempting to obtain through this lawsuit what they have sought through the political process, i.e., a legal requirement that patients seeking abortion be told that an abortion will increase their risk for breast cancer. See Plaintiffs' Exhibit 10 at ("Anti-abortion foes are also lobbying for legislation that would require telling women who are considering abortion that having one wouldplace them at in [sic] increased risk for breast cancer (Querido, 1999)."). However, the Court is not a legislative body and cannot and will not legislate from the bench; judicial restraint, especially with regard to such a highly charged public issue as abortion, is absolutely necessary to ensure that the judicial system is not misused for political ends. CCP § 425.16 (a) (the Legislature has declared that "it is in the public interest to encourage continued participation in matters of public significance, and that this

participation should not be chilled through abuse of the judicial process.") CCP § 425.16 (a) (emphasis added).

Therefore, it is highly unlikely for all the above reasons that Plaintiffs will prevail and that this Court will issue the specific injunctions Plaintiffs seek. Consequently, the Court strikes Plaintiffs' Complaint under CCP section 425.16 and dismisses the action with prejudice.

Should Plaintiffs wish to present oral argument, they shall file and serve with the Court by 4:00 p.m. on March 20, 2002, a two-page letter brief (i) identifying the issues to be argued and(2) stating a summary of the arguments to be presented on each issue. The opposing party shall file and serve by 4:00 p.m. on March 21, 2002, a two-page letter brief responding to the arguments. If the Court receives the letter brief requesting oral argument by the above deadline, oral argument is scheduled for March 29, 2002 at 1:15 p.m.

IT IS SO ORDERED.

Dated: 03/18/02

/s/
JUDGE/COMMISSIONER OF THE SUPERIOR COURT

APPENDIX G

CODE OF CIVIL PROCEDURE
PART 2. Civil Actions
TITLE 6. Pleadings in Civil Actions
CHAPTER 2. Pleadings Demanding Relief
ARTICLE 1. General Provisions

Cal Code Civ Proc § 425.16 (2004)

§ 425.16. Legislative findings; Special motion to strike action arising from "act in furtherance of person's right of petition or free speech under United States or California Constitution in connection with a public issue"

(a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.

(b)(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

(2) In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(3) If the court determines that the plaintiff has established a probability that he or she will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination.

(c) In any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(d) This section shall not apply to any enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor.

(e) As used in this section, "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue" includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law; (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law; (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with

an issue of public interest; (4) or any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(f) The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be noticed for hearing not more than 30 days after service unless the docket conditions of the court require a later hearing.

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

(h) For purposes of this section, "complaint" includes "cross-complaint" and "petition," "plaintiff" includes "cross-complainant" and "petitioner," and "defendant" includes "cross-defendant" and "respondent."

(i) On or before January 1, 1998, the Judicial Council shall report to the Legislature on the frequency and outcome of special motions made pursuant to this section, and on any other matters pertinent to the purposes of this section.

(j) An order granting or denying a special motion to strike shall be appealable under Section 904.1.

(k)(1) Any party who files a special motion to strike pursuant to this section, and any party who files an opposition to a special motion to strike, shall, promptly upon so filing,

transmit to the Judicial Council, by e-mail or fax, a copy of the endorsed-filed caption page of the motion or opposition, a copy of any related notice of appeal or petition for a writ, and a conformed copy of any order issued pursuant to this section, including any order granting or denying a special motion to strike, discovery, or fees.

(2) The Judicial Council shall maintain a public record of information transmitted pursuant to this subdivision for at least three years, and may store the information on microfilm or other appropriate electronic media.

HISTORY:

Added Stats 1992 ch 726 § 2 (SB 1264). Amended Stats 1993 ch 1239 § 1 (SB 9).

Amended Stats 1997 ch 271 § 1 (SB 1296); Stats 1999 ch 960 § 1 (AB 1675), effective October 10, 1999.

BUSINESS & PROFESSIONS CODE
DIVISION 7. General Business Regulations
PART 2. Preservation and Regulation of Competition
CHAPTER 5. Enforcement

Cal Bus & Prof Code § 17200 (2004)

§ 17200. Definition

As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

HISTORY:

Added Stats 1977 ch 299 § 1.
Amended Stats 1992 ch 430 § 2 (SB 1586).

BUSINESS & PROFESSIONS CODE
DIVISION 7. General Business Regulations
PART 3. Representations to the Public
CHAPTER 1. Advertising
ARTICLE 1. False Advertising in General

Cal Bus & Prof Code § 17500 (2004)

§ 17500. False or misleading statements generally

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or

by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that imprisonment and fine.

HISTORY:
Added Stats 1941 ch 63 § 1.
Amended Stats 1955 ch 1358 § 1; Stats 1976 ch 1125 § 4; Stats 1979 ch 492 § 1; Stats 1998 ch 599 § 2.5 (SB 597).

04 6 3 (2)

No. JUL 13 2004

OFFICE OF THE CLERK

In the

Supreme Court of the United States

AGNES BERNARDO, et al.,

Petitioners,

v.

PLANNED PARENTHOOD FEDERATION OF AMERICA. et al.,

Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of California

Volume 1 of 2 of the Appendix
PETITION FOR WRIT OF CERTIORARI

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F/O

Appendix I

Exhibit 10 . . . . . 112a

Exhibit 11 . . . . . 180a-230a

Appendix II

Exhibit 11 . . . . . 231a-455a

Exhibit 12 . . . . . 456a

Exhibit 13 . . . . . 483a

Exhibit 14 . . . . . 512a

EXHIBIT 10

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN DIEGO HALL OF JUSTICE

Case No. GIC 772552

AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY-HAWKINS, individually and on behalf of the GENERAL PUBLIC	)
Plaintiffs,	)
v.	)
PLANNED PARENTHOOD FEDERATION OF AMERICA and PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES	)
Defendants.	)

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DECLARATION OF FRANCIA MORELLO

GENERAL CIVIL

I, Francia Morello, declare as follows:

1. I am an adult of sound mind and body and make this declaration based upon my personal knowledge.

2. On January 2 and 3 of 2002 I visited the web sites of Planned Parenthood of America and Planned Parenthood of San Diego and Riverside Counties as indicated by the notations on the headers and footers of the documents attached hereto.

3. The documents attached hereto are true and accurate copies of pages appearing on the websites of Planned Parenthood Federation of America, Inc. and Planned Parenthood of San Diego and Riverside Counties.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED this 7th day of January, 2002.

/s/_____
FRANCIA MORELLO

[000001]

Planned Parenthood Federation of America, Inc.

Planned Parenthood, your most trusted source for sexual health info.

Take action

Sign the Petition for Choice
In light of the threat to women's privacy, we ask you to reaffirm your commitment to *Roe v. Wade* and support programs and legislation that can best protect reproductive freedom.

featured articles

Donating Embryonic Cells and Fetal Tissue for Medical Treatment and Research
There is currently much debate about funding the use of pre-embryonic, embryonic, and fetal cells and tissue for medical treatment and research. This updated fact sheet presents the latest information on this topic.

teenwire.com Quiz: Are You STI Savvy?
Think you know everything there is to know about sexually transmitted infections? Test yourself with this quiz, and find out how much you really know about these infections.

House Anti-Choice Leadership Kills Community Health Centers Bill
Once again, anti-choice reactionaries are willing to sacrifice the health and welfare of low-income families across America to further their regressive and single-minded agenda.

Give a Planned Parenthood Calendar for 2002
Order this 2002 artistic calendar with images from our award-winning TV commercial and compelling, poetic narrative.

[000002]

plannedparenthood dot org

[000003]

FACT SHEET

Planned Parenthood Services, 1999

Sexual and Reproductive Health Services

In 1999, Planned Parenthood provided more than 5 million people with the means to make responsible choices about their sexual and reproductive health. Our 875 clinics are operated by 127 affiliates that serve communities in the District of Columbia and every state except North Dakota, Hawaii, and Mississippi.

The core of Planned Parenthood affiliate medical service is contraception and accompanying health care and counseling. Last year, we provided medical services for nearly 4 million people (IGPP, 2000). Every year, we prevent an estimated half-million unintended pregnancies (PPFA, 1998).

Sexuality Education

In 1999, more than 2,200 affiliate staff and volunteer educators provided more than 78,000 educational programs to

more than 1.4 million people of all ages and in a variety of settings -- from preschools to universities, from prisons and social service programs to religious institutions and civic organizations. Programs focused on 25 different content areas, such as teenage pregnancy, contraception/family planning, sexually transmitted infections, AIDS/HIV, puberty education, parent-child communication, women's health, sexual orientatio0/homophobia, safer sex, sexuality education, and family life education (IGPP, 2000). In addition to the education programs, more than 5,000 training programs were provided by 155 affiliate staff and volunteer trainers to more than 63,000 professionals who work with children, teens, and young adults. Those trained included teachers, social workers, physicians, nurses, religious leaders, prison staff, rehabilitation counselors, addiction counselors, and group home staff (IGPP, 2000

Service	**No. of Procedures**	**Referrals**
Contraceptive Clients-Women	1,883,374	
Contraceptive Clients- Men	38,632	
Abortion Procedures	182,854	
HIV Testing Clients -- Women	152,596	
HIV Testing Clients -- Men	30,928	
Vasectomy Clients	2,445	790
Sterilization Clients -- Women	9O2	2,405
Prenatal Clients	19,281	

[000004]

Infertility Clients	516
Colposcopy Procedures	29,019
Cryotherapy Procedures	5,869
Emergency Contraception Clients	112,807

Midlife Clients	121,086	
Pregnancy Tests	1,035,486	
Breast Exams/Breast Care (Referred Out)	1,100,901	9,382
Adoption 2,999		
Primary Care Clients	20,189	
All Other Procedures	75,949	
Totals	**4,712,834**	**15,576**

Reversible Contraceptive Methods *chosen by Planned Parenthood Clients, 1999*
(shown as percent of all contraceptive clients, rounded to nearest tenth percent)

Oral	52.4
Non-Prescription Barriers	13.3
Injectible	11.8
Other/Unknown	5.4
Emergency Contraception	3.9
IUD	0.8
Prescription Barrier	0.5
Norplant	0.4
Prediction Fertility	0.2
No Method	11.3

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PPFA -- Planned Parenthood Federation of America. (1998). *1997-1998 Annual Report*. New York: Planned Parenthood

Federation of America.

PPFA -- Planned Parenthood Federation of America. (2000). *1999-2000 Annual Report*. New York: Planned Parenthood Federation of America.

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[000005]

Fact Sheet
Published by the Katharine Dexter McCormick Library
Planned Parenthood Federation of America
810 Seventh Avenue, New York, NY 10019 212-261-4779
www.plannedparenthood .org
www.teenwire.com
Current as of February 2001

[000006]

plannedparenthood
Sexual Health

Each year, Planned Parenthood health centers nationwide provide high quality, affordable reproductive health care and sexual health information to more than five million women, men and teens. Planned Parenthood health centers offer a wide range of reproductive and sexual health services.

Support the work of Planned Parenthood. Donate Now!

Planned Parenthood Health Centers

Birth Control

Emergency Contraception

Sexually Transmitted Infections and Safer Sex

Pregnancy and Parenting

Abortion

Teen Issues

Women's Health

[000007]

Abortion
It is a policy of Planned Parenthood Federation of America to ensure that women have the right to seek and obtain medically safe, legal abortions under dignified conditions and at reasonable cost.

- Choosing Abortion - Questions and Answers
- Medical Abortion - Questions and Answers
- Mifepristone (Formerly known as RU-486)
- Surgical Abortion - Questions and Answers
- Five Ways to Prevent Abortion (And One Way That Won't)

- Nine Reasons Why Abortions are Legal

- Anti-Abortion Counseling Centers: A Consumer's Alert to Deception, Harassment, and Medical Malpractice

Fact Sheets and Reports:

Abortion and Women's Health Issues

- Abortion after the First Trimester
- Anti-choice Claims About Abortion and Breast Cancer
- The Emotional Effects of Induced Abortion
- Medical and Social Health Benefits Since Abortion Was Made Legal in the U.S.
- How Abortion Is Provided
- Mifepristone: A Brief History
- Mifepristone: Expanding Women's Options for Early Abortion
- Unsafe Abortion Around the World
- Women's Stories of Abortion and Reflections on *Roe v. Wade*

Abortion and Legal Issues

- Donating Fetal Tissue for Medical Treatment and Research
- A History of Protecting Reproductive Health Services in the Courts
- Laws Requiring Parental Consent or Notification for Minors' Abortions
- Major U.S. Supreme Court Rulings On Reproductive Health And Rights
- Profiles of 14 Leading Anti-Choice Organizations
- *Roe v. Wade* at 25: Its History and Impact
- Teenagers, Abortion, and Government Intrusion Laws

[000008]

- Why Abortion Bans are Unconstitutional

Reports

- Major U.S. Supreme Court Rulings on Reproductive Heatlh and Rights (1965-1997)
- Summary of Ruling by U.S. Court of Appeals for the Seventh Circuit Upholding Two State Laws Banning Abortion
- Summary of Rulings by U.S. Court of Appeals for the Eights Circuit Striking Down Three State Laws Banning Abortion
- Summary of *Planned Parenthood of Southeastern Pennsylvania v. Casey*
- Summary of *Webster v. Reproductive Health Services*
- U.S. Supreme Court Reviews *Stenberg v. Carhart*

En Español

- Como Se Obtiene Un Aborto
- Mifepristona: Aumento en las Opciones de las Mujeres para Obtener un Aborto Prematuro

For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free 1-800-230-PLAN.

For more information, please read our Frequently Asked Questions.

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Surgical Abortion – Questions and Answers

Index

- What is surgical abortion?
- How does it work?
- How long does it take?
- How effective is it?
- What do I need to do to get a surgical abortion?
- How does it feel?
- How is MVA performed?
- How is a D&C performed?
- How is a D&E performed?
- What are the health risks of abortion?
- After the abortion?
- How will I feel later?
- Will I bleed for a long time?
- When will I get my period?
- When can I have sex again?
- Where can I get a surgical abortion?
- How much does abortion cost?

For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free 1-800-230-PLAN.

For more information, please read our Frequently Asked Questions.

[000010]

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Will I bleed for a long time?
You may bleed off and on for a couple of weeks. Some women have cramps and pass a few large blood clots for up to 10 days. Use sanitary pads - not tampons.

When will I get my period?
Abortion begins a new menstrual cycle. You should have a regular period in four to eight weeks. *You can get pregnant very soon after the abortion.*

When can I have sex again?
You should not havevaginal intercourse until three weeks after you stop bleeding. Your cervix needs to close again. If you have vaginal sex, use a condom to avoid infection.

Where can I get a surgical abortion?
Contact Planned Parenthood at 1-800-230-PLAN, other women's health centers, or your private clinician. Or call the National Abortion Federation at 1-800-772-9100.

How much does abortion cost?
Fees depend on how long you've been pregnant and where you go. At health centers, the cost ranges from about $225 $575 for abortion in the first trimester. Hospitals generally cost more.

For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free 1-800-230-PL.AN.

For more information, please read our Frequently Asked Questions.

Fold Out Exhibit

(Planned Parenthood Health Centers)

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plannedparenthood

Planned Parenthood Health Centers

Your Online Source for Reproductive Health Information

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about us
sexual health
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research information
DONATE NOW

Please enter your zip code below so that we may provide you with information about your local clinic:

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You also can find your local clinic by selecting your state:

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Look up and Contact YOUR members of Congress

For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free **1-800-230-PLAN**.

For more information, please read our Frequently Asked Questions.

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[000013]

Welcome to
Planned Parenthood®

Affiliates

Six Rivers Planned Parenthood

Planned Parenthood Los Angeles

Planned Parenthood of Pasadena

Planned Parenthood of San Diego & Riverside Counties

Planned Parenthood Mar Monte

Planned Parenthood Golden Gate

Planned Parenthood of Orange & San Bernardino Counties

Planned Parenthood of Santa Barbara, Ventura & San Luis Obispo Counties, Inc.

Planned Parenthood: Shasta-Diablo

Planned Parenthood Association of Idaho

For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free 1-800-230-PLAN.

For more information, please read our Frequently Asked Questions.

[000014]

Planned.org

Planned Parenthood of San Diego & Riverside Counties

e-Clinic
Reproductive health care made easy! Our e-clinic allows you to look up information on your own or ask questions of one of our clinicians.

Teen 411
Just for teens. Health info, dating advice, how to say no, what to do if you decide to say yes, and more.

NEWS

Don't want to wait for an appointment? Come to our new Planned Parenthood Express in Mission Valley!

Planned Parenthood is now offering mifepristone (also known as RU-486) as an early option for terminating pregnancy.

Live in the desert area? We have a new location in Rancho Mirage!

tel: (619) 683-PLAN
1075 Camino del Rio South, Suite 200, San Diego, CA 92108

[000015]

What are the health risks of abortion?

In the first 20 weeks, abortion is much safer than giving birth. Complications from early abortion include

- Allergic reactions to the drugs. Tell your clinician what medications or recreational drugs you take. It will be strictly confidential.
- Incomplete abortion. This occurs in less than 1 out of 100 D&C abortions. It occurs in 1 out of 200 D&Es.
- Blood clots in the uterus.
- Infection. Usually antibiotics clear up the infection. In rare cases, a repeat procedure, hospitalization, or surgery is needed.
- Very heavy bleeding. You may need medication, a D&C, or, rarely, surgery. Very rarely, blood transfusions are required.
- A cut or torn cervix. This occurs in fewer than 1 out of 100 early abortions.
- Organ injury. In about 1 of 1,000 early abortions, an instrument goes through the wall of the uterus. In even fewer cases, this leads to infection, heavy bleeding, or both. In D&E this happens 3 of 1,000 times. Surgery, or very rarely, hysterectomy, may be needed.
- Death occurs in 1 of 100,000 abortions. Childbirth carries seven times more risk.

After the abortion?

- After very early and early abortions, you will rest in a recovery room for about an hour.
- If you have an Rh negative blood type, you will receive an injection to protect future pregnancies.

- o You will receive written after-care instructions and a 24-hour emergency phone number. Call your clinician if you have heavy bleeding, pain, or fever. o You can discuss birth control with your counselor.
- o You will make a follow-up appointment in two to four weeks.

How will I feel later?
You may have cramps. You may want to relax for the rest of the day. You may shower as soon as you wish. Do not take baths, douche, or use vaginal medications. You can usually return to work or other normal activities the next day. Recovery after later abortions may take longer.

Order this brochure online at the Planned Parenthood bookstore.

For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free 1-800-230-PLAN.

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FACT SHEET

Medical and Social Health Benefits
Since Abortion Was Made Legal in the U.S.

Despite the claims of anti-choice ideologues, many demonstrable health benefits m physical, emotional, and social m have accrued to Americans since 1973, when the U.S.

Supreme Court legalized abortion in its decision, Roe v. Wade.

The most important benefit, of course, has been the end of an era that supported the proliferation of "back alley butchers" who were motivated by money alone and performed unsafe, medically incompetent abortions that left many women dead or injured. And compassionate mainstream physicians, who provided clandestine, medically safe abortions, who did not exploit their patients, and who were motivated by principle rather than by financial concerns, no longer had to fear imprisonment and the loss of their medical licenses for performing abortions after Roe was decided (Joffe, 1995). Today, as attempts to criminalize abortion are on the rise, it is important to remember how far Roe has brought us as a society and to note some of the many benefits that resulted from this landmark decision.

Roe v. Wade did not "invent" abortion.

- Estimates of the annual number of illegal abortions in the 1950s and 1960s range from 200,000 to 1.2 million (Tietze & Henshaw, 1986).
- In 1969, one year before New York State legalized abortion, complications from abortions accounted for 23 percent of all pregnancy-related admissions to municipal hospitals in New York City (Institute of Medicine, 1975).
- After California liberalized its abortion law in 1967, the number of admissions for infection resulting from illegal abortion at Los Angeles County/University of Southern California Medical Center fell by almost 75 percent (Seward et al., 1973).

Since Roe v. Wade, women have obtained abortions earlier in pregnancy when health risks to them are at the lowest.

- In 1973, only 38 percent of abortions were performed at or before eight weeks of pregnancy (CDC, 1974).
- Today, 88 percent of all legal abortions are performed within the first 12 weeks of pregnancy, and 55 percent take place within the first eight weeks of pregnancy. Only 1.5 percent occur after 20 weeks (CDC, 1999).

Deaths from abortion declined dramatically during the past two decades.

[000017]

- In 1965, when abortion was still illegal nationwide except in cases of life endangerment, at least 193 women died from illegal abortions, and illegal abortion accounted for nearly 17 percent of all deaths due to pregnancy and childbirth in that year (NCHS, 1967).
- In 1973, the risk of dying from an abortion was 3.4 deaths per 100,000 legal abortions. This rate fell to 1.3 by 1977 (Gold, 1990).
- Today, abortion is one of the most commonly performed clinical procedures, and the current death rate from abortion at all stages of gestation is 0.6 per 100,000 procedures. This is eleven times safer than carrying a pregnancy to term and nearly twice as safe as a penicillin injection (Paul et al., 1999; Gold, 1990).

Medically safe, legal abortion has had a profound impact on American women and their families.

- Couples at risk of having children affected with severe and often fatal genetic disorders have been willing to conceive because of the availability of amniocentesis and safe, legal abortion (Milunsky, 1989).
- Thirty-one percent of the abortions in the U.S. are provided to the women for whom the health and social consequences of unintended childbearing are the greatest m women over 35 and teenagers (Henshaw & Kost, 1996).
- More than half of all abortions are performed at or before eight weeks of pregnancy, when the procedure is the safest
  – 0.2 deaths per 100,000 procedures (Gold, 1990).
- Half of all pregnancies in the U.S. each year are unintended, and about half of these are terminated by medically safe, legal abortions (Henshaw, 1998a). In 1996, 1.37 million abortions took place, down from an estimated 1.61 million in 1990. From 1973 through 1996, more than 34 million legal abortions occurred (Henshaw, 1998b).
- If safe, legal abortion were not available, more women would experience unwanted childbearing, and unwanted childbearing affects the entire family. Mothers with unwanted births suffer from higher levels of depression and lower levels of happiness than mothers without unwanted births. They spank and slap their children more often than other mothers, and spend less leisure time outside the home with their children. Lower-quality mother/child relationships are not limited to the child born as a result of the unwanted pregnancy -- all the children in the family suffer (Barber et al., 1999).

The health and well-being of women and children suffer the most in states that have the most stringent anti-abortion laws.

This is elucidated by Jean Ruth Schroedel in her book, *Is the Fetus a Person* ? A Comparison of Policies in the Fifty States, to be published in June 2000 by Cornell University Press. Recent news articles about her findings note the following:

- Compared to pro-choice states, anti-abortion states spend far less money per child on a range of services such as foster care, education, welfare, and the adoption of children who have physical and mental handicaps (Pollitt, 1999.)

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- The states that have the strongest anti-abortion laws are also the states in which women suffer from lower levels of education and higher levels of poverty, as well as from a lower ratio of female-to-male earnings. They also have a lower percentage of women in the legislature and fewer mandates requiring insurance providers to cover minimum hospital stays after childbirth (Pollitt, 1999).

The legalization of abortion is a significant factor in the dramatic drop in crime in the U.S. in the 1990s.

- Previous research has established that a strong link exists between an adverse family environment and future criminal behavior; that maternal rejection is counted among the various qualitative aspects of parenting that provide the most accurate predictors of juvenile delinquency; and that having been born of a pregnancy that was unwanted by one's mother is a circumstance that increases a person's risk of committing violent crime (David, 1988).

- Legalized abortion can account for about half the observed decline in crime in the U.S. between 1991 and 1997. Homicide rates have fallen more than 30 percent, and violent crime and propórty crime have each fallen between 15 and 20 percent.
- The timing of the drop in crime corresponds to the period in which the first generation of children born after the legalization of abortion are reaching what are considered to be the peak ages of criminal activity (18-24 years old). Furthermore, states that legalized abortion before the rest of the nation did so were also the first states to experience decreasing crime rates.
- States with high abortion rates have seen a greater fall in crime since 1985, even after taking into account other factors that would be expected to influence the crime rate. Furthermore, these declines in crime rates in high-abortion states are disproportionately concentrated among those under the age of 25. (Donohue & Levitt, 1999)

In sum, no amount of controversy over abortion can negate the evidence that American women, men, children, and families have reaped great benefits to their physical, mental, and social health from the U.S. Supreme Court's historic decision in Roe v. Wade. Any erosion of a woman's right and access to medically safe, legal abortion jeopardizes the health of women, their families, and the nation as a whole.

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[000020]

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Current as of January 2000

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[000021]

planned.orge-ClinicTeen 411

Abortion Info: Q&A: Is abortion safe?

Is abortion safe?
Yes. Today, abortion is about twice as safe as having your tonsils out and is safer than childbirth. In fact, abortion is 11 times safer than giving birth up to the 18th week of pregnancy. However, the risk of rare, serious complications or death from abortion increases the longer a pregnancy goes on.

Ask a Clinician
Make an appointment

[000022]

E-Clinic

Planned Parenthood of San Diego and Riverside Counties (PPSDRC) has been providing comprehensive reproductive health care services for over 30 years. Planned Parenthood is recognized as an outstanding provider of medical services and one of the largest providers of reproductive health care services in the United States.

Planned Parenthood of San Diego and Riverside Counties has an extensively trained staff of obstetricians/gynecologists, registered nurses, nurse practitioners, physician assistants, medical assistants and educators who understand the importance of reproductive health care.

Most of our services are available for FREE through Family PACT, a state-funded program. Afraid you don't qualify? You probably do! Give us a call or visit one of our clinics to make sure.

Call us at 1-800-230-PLAN to make an appointment

PPFA Web Site ©2000, Planned Parenthood of San Diego & Riverside Counties.

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Make an Appointment – 1

To make an appointment at any of our clinics, please call **1-800-230-PLAN.**

Chula Vista
1295 Broadway #201
Chula Vista 91911
(619) 585-4779

College Avenue
4575 College Ave., Suite B
San Diego 92115
(619) 286-6004

El Cajon
330 S. Magnolia #101
El Cajon 92020
(619) 442-9444

Encinitas
332 Santa Fe Dr., Suite 120
Encinitas 92024
(760) 634-8333

Escondido
215 S. Hickory Street #112
Escondido 92025
(760) 738-7770

Fifth Avenue - Womancare
3500 Fifth Ave #102
San Diego 92103
(619) 296-6312

Francis Torbert Euclid Ave.
220 Euclid Ave, Suite 40
San Diego 92114
(619) 262-3941

Kearny Mesa
7526 Clairemont Mesa Blvd.
San Diego 92111
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Ask a Clinician

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FACT SHEET

Anti-choice Claims About Abortion and Breast Cancer

Undaunted by the absence of compelling evidence associating induced abortion with a woman's risk of developing breast cancer, anti-choice extremists insist on making the connection anyway. Once more they are using misinformation as a weapon in their campaign against safe, legal abortion. In the guise of an ostensible concern for women's health, these ideologues point to inconclusive, and at times flawed, studies for alleged evidence of a possible association, while ignoring or dismissing overwhelming evidence that induced abortion does not place women at greater risk of breast cancer. Neither the National Cancer Institute nor the American Cancer Society recognizes the reliability of such an association (ACS, 199b; NCI, 1999). Yet anti-choice zealots have drawn highly questionable conclusions to develop "public education" campaigns such as the advertisements sponsored by Christ's Bride Ministries that appeared on public transportation vehicles in Philadelphia warning that "women who choose abortion suffer more and deadlier breast cancer" (Slobodzian, 1999). Anti-abortion foes are also lobbying for legislation that would require telling women who are considering abortion that having one would place them at in increased risk for breast cancer (Querido, 1999).

While researchers do not know what causes breast cancer, reproductive factors have been associated with risk for the disease since the 17th century, when breast cancer was noted to be more prevalent among nuns. It is knowrl that having a

full-term pregnancy early in a woman's childbearing years is protective against breast cancer, and some studies have also indicated that breastfeeding, especially in women who are young when they give birth, may reduce a woman's risk of developing the disease. A woman's age at menarche and menopause also influence her risk for breast cancer, with earlier onset of regular menstrual cycles and later age at menopause associated with higher risk (Kelsey & Gammon, 1991). However, the best available evidence -- from large population-based cohort studies -- shows no net effect that induced abortion places women at increased risk for developing breast cancer (Bartholomew & Grimes, 1998).

Hypothesis: Hormones Lead to Breast Cell Differentiation

The theory linking pregnancy termination and breast cancer is based on the hormonal disruption that occurs when a woman's pregnancy is interrupted. Pregnancy initiates a surge of sex hormones (estrogen, progesterone, and prolactin), which leads to differentiation of the cells in the breast glands in preparation for lactation. The changing concentrations of hormones during the second and third trimesters of pregnancy lead to increased differentiation. In a first pregnancy, the results of these hormonal changes permanently alter the structure of the breast. Adherents of

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this theory claim that interruption of the first trimester of a first pregnancy causes a cessation of cell differentiation that may result in a subsequent increase in the risk of cancerous growth in these tissues (Brumsted & Riddick, 1990; Westhoff, 1997). Attempts to prove this theory, however, have failed.

Many Factors Contribute to Inconclusive Study Results

At least 75 research studies worldwide have collected data about breast cancer and reproductive factors such as childbirth, menstrual cycles, birth control pills, and abortion. Approximately 25 studies have examined the risk of developing breast cancer for women who have had abortions. Cancer researchers at the National Cancer Institute, the American Cancer Society, and major universities say that the most reliable studies show no increased risk, and they consider the entire body of research inconclusive (ACS, 1999; NCI, 1999; Rosenfield, 1994?).

A number of factors may render a study unreliable:

- Miscarriages and induced abortion affect a woman's body differently but many studies have not distinguished between them.
- Many women do not report miscarriages because they are unaware they have had them.
- Abortions are often unreported because of the privacy of the decision to terminate a pregnancy.
- Some studies have not examined the possibly different effects of abortion after or before a full-term pregnancy.
- Other studies have not been careful tO examine the impact of age at the time of abortion and age at the time of first childbirth.
- Many studies have been too small to be statistically significant.

(Wingo et al., 1997; NCI, 1999).

Two of the Strongest Studies Published to Date Show no Overall Relationship Between Induced Abortion and Breast Cancer

One of the most highly regarded studies on abortion and breast cancer was published in the New England Journal of Medicine in 1997. This study of 1.5 million women found no overall connection between the two (Melbye et al., 1997). This study benefited from its size -- 1.5 million women -- and by linking data from the National Registry of Induced Abortions and the Danish Cancer Registry, thereby avoiding one of the pitfalls observed in some case-control studies -- that women with breast cancer were more likely to recall having had an induced abortion than women without breast cancer, particularly because abortion had been illegal (Brody, 1997; Westhoff, 1997). An accompanying editorial on the results of the study led the writer to conclude that, "in short, a woman need not worry about the risk of breast cancer when facing the difficult

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decision of whether to terminate a pregnancy." (Hartge, 1997)

Another large cohort study was done in Sweden. It followed, for as long as 20 years beginning in 1966, 49,000 women who had received abortions before the age of 30. Not only did the study show no indication of an overall risk of breast cancer after an induced abortion in the first trimester, but it also suggested that there could well be a slightly reduced risk. Among women who had given birth prior to induced abortion, the relative risk for breast cancer was 0.58; for thosewho had never given birth, the relative risk was 1.09; for the total

sample, the relative risk was 0.77 (Lindefors Harris et al., 1989).

Studies Published During the Past 20 Years Offer Mixed Results

Before Melbye's seminal study appeared in 1997 in the New England Journal of Medicine, the body of published research showed inconsistent and inconclusive evidence -- some found abortion to have a protective effect, others found a slightly elevated risk. Many of these studies were hindered by the small sample size, others failed to distinguish between induced and spontaneous abortion, and others did not take confounding factors into account (NCI, 1999).

A recent population-based case-control study examined data from the Carolina Breast Cancer Study to determine what, if any, connections exist between induced abortion and other reproductive events in adolescence and the development of breast cancer later in life. The authors reported that neither induced nor spontaneous abortion during adolescence was connected to an increased risk of breast cancer. They did, however, observe that breastfeeding conferred some protection against breast cancer (Marcus et al., 1999).

In 1996, Joel Brind and colleagues published a meta-analysis of 28 published reports describing 23 studies on induced abortion and breast cancer. Based on these studies, the authors calculated that induced abortion places women at a slightly increased risk for developing breast cancer (Brind et al., 1996). This analysis has been criticized for attempting to calculate the odds for developing breast cancer from widely varying studies (Blettner et al., 1997), some of which have been criticized for methodological flaws and for failing to

calculate their results from the raw data of the original studies (Melbye et al., 1997).

A 1994 study, published in the Journal of the National Cancer Institute, was a case-control study of 845 women in Washington State who were diagnosed with breast cancer from 1983 through 1990, and of 961 controls. The study found that among women who had been pregnant at least once, the risk of breast cancer in those who had experienced an induced abortion was 50 percent higher than among other women. Highest risks were observed when the abortion was done at ages younger than 18. No increased risk was associated with a spontaneous abortion. However, the study was relatively small, lacked objective measures for establishing pregnancy duration, and was susceptible to reporting bias, since a breast cancer diagnosis may influence a woman's recall or disclosure of her reproductive history. The authors reported that the study's limitations "argue against a firm conclusion at this time" and called for further research (Daling et al., 1994). An editorial that

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accompanied the report said that "it is difficult to see how [the study results] will be informative to the public" (Rosenberg, 1994).

A 1989 study matched 1,451 women in New York State whose breast cancer was reported from 1976-1980 with controls of equivalent age and residence (Howe et al., 1989). The study examined state health records for the prior incidence of abortion or miscarriage. An odds ratio of 1.9 was found for cases with a history of only induced abortions, 1.5 for only spontaneous abortions, and 4.0 for repeated interrupted pregnancies with no intervening births. However,

the cohort consisted only of women under age 40 and the follow-back search was restricted to events that occurred since 1971. The authors believed that the study was inconclusive.

In a 1987 study, researchers reported "little relation of breast cancer risk with abortions or miscarriages" (La Vecchia, 1987). Four years later, the same researchers again found no consistent relationship (Parazzini, 1991). Other researchers concluded in 1988 that the data "suggest that the risk of breast cancer is not materially affected by abortion, regardless of whether it occurs before or after the first term birth" (Rosenberg, 1988).

A 1985 study examined the association between spontaneous abortion prior to a first birth and the risk of breast cancer among 3,315 Connecticut women who gave birth between 1946 and 1965. Among women who experienced one childbirth, a prior miscarriage was associated with a 3.5-fold increase in the risk of breast cancer. While the study concluded that an abortion prior to the first live birth may increase a woman's risk of breast cancer, it examined only spontaneous abortion. Among the questions left open to speculation was whether a hormonal imbalance may have resulted in both the spontaneous abortion and the onset of cancer (Hadjimichael et al., 1986).

A 1981 study of women in Los Angeles County looked at both oral contraceptive use and early abortion as risk factors (Pike et al., 1981). The cohort consisted of 163 women diagnosed with breast cancer between 1972 and 1978. All of the women were aged 32 or younger at the time of diagnosis. The study found that a first-trimester abortion, whether spontaneous or induced, before first full-term pregnancy appeared to cause a relative risk of 2.4 for subsequent development of breast cancer. The extremely small cohort

size and the age restriction of the methodology rendered the results inconclusive.

Risk Factors for Breast Cancer are Varied

In addition to the reproductive factors that affect a woman's risk of developing breast cancer, a wide variety of other considerations have been the subject of continued research by epidemiologists. Of particular concern are factors related to genetics, nutrition (especially dietary fat intake), age, and the environment (exposure to carcinogens) (Jones, 1990).

A family history of breast cancer is reported to increase a woman's risk of developing the disease twofold to threefold (Jones, 1990). In one study (Sattin et al., 1989), women with a first-degree relative (a mother or sister) with breast cancer had a relative risk 2.3 times that of women without a family history of breast cancer. For women with both an affected mother and sister, the relative risk was 14.

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Of potential carcinogenic significance is the finding that environmentally derived chemicals are secreted into the breast fluid and concentrated by the alveolar ductal system. For example, five minutes after a woman smokes a cigarette, nicotine appears in her breast secretion. Although smoking has not been linked to breast cancer, the finding shows that almost anything to which a woman is exposed may appear in her breast fluid (Jones, 1990).

Nutritional considerations have focused on dietary fat, with the exception of monosaturated fat such as olive oil. While Asian women show a lower incidence of breast cancer than women in western countries, women who move from areas of low to high incidence, such as Japanese women moving to Hawaii, show a slow but definite increase in breast cancer over successive generations (Wynder & Rose, 1984). Other research has investigated certain metabolic conversions that are affected by total body weight (Deslepeyre et al., 1985).

Some studies have found that alcohol consumption may be implicated in breast cancer risk, and that the risk may increase in women who consume greater than three drinks of alcohol per week (Hiatt et al., 1984; Willett et al, 1987; Schatzkin et al., 1987).

Planned Parenthood Promotes Women's Health

As the nation's largest provider of reproductive health services, Planned Parenthood is concerned above all with women's health and the risk factors for reproductive health problems. PPFA health centers adhere to strict, nationwide medical standards. Screening and management of breast conditions are integral components of Planned Parenthood services. All clinicians providing routine reproductive health services perform breast examinations and instruct patients in breast self-examination. Breast exams are performed regularly as part of a patient's initial and annual examination, during an initial prenatal visit, and during other non-routine visits. In 1998, Planned Parenthood health centers provided 1,122,175 breast examinations.

Although most Planned Parenthood centers do not offer mammography, each affiliate must have a physician available who is able to evaluate patients identified with abnormal

breast findings who have been referred by clinicians, either on-site or by referral, and each affiliate maintains a list of radiologists and breast disease specialists to whom Planned Parenthood patients can be referred. All Planned Parenthood health centers also provide abortion counseling and referral for or provision of abortion services m in 1998, Planned Parenthood provided 167,928 abortions nationwide.

The Planned Parenthood Position is That Abortion Poses no Demonstrated Health Risks

The link between induced abortion and breast cancer is a theory whose principal promoters oppose abortion regardless of its safety. The theory has not been borne out by research. While Planned Parenthood believes that women should have access to information about all factors that influence the risk of disease, PPFA also believes that women deserve information that is medically substantiated and untainted by a political agenda. Because the research community has not reached a consensus on breast cancer and abortion, Planned Parenthood advises women who are considering terminating a pregnancy that there is no currently

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demonstrated health risk from abortion that would warrant basing a decision on that factor alone.

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Choosing Abortion -Questions and Answers

Index

- What is abortion?
- Who chooses abortion?
- Can anyone help me decide if abortion is right for me?
- Does my partner or a parent need to know?
- When are abortions performed?
- Does getting an abortion .hurt?
- Can an embryo or fetus feel pain?
- How will I feel after an abortion?
- What about future pregnancies?
- Does abortion cause breast cancer?

Related Links:

Medical Abortion: Questions and Answers
Surgical Abortion: Questions and Answers

For medical questions, or to schedule an'appointment with the nearest Planned Parenthood center, call toll-free **1-800-230-PLAN.**

For more information, please read our Frequently Asked Questions.

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Choosing Abortion - Questions and Answers

Page 3

Does getting an abortion hurt?
Some kind of painkiller is used in all abortions. Most women feel cramps. You may have cramps during and after an early surgical abortion. You will feel strong cramps with medical abortion.

Can an embryo or fetus feel pain?
Almost all abortions are performed before the capacity to feel pain develops.

How will I feel after an abortion?
Most women feel relief. Sudden hormonal changes after abortion can make you feel anger, regret, guilt, or sadness for a little while.

Some people who oppose women's right to make their own decisions claim that abortion often causes long-lasting emotional problems, or "post-abortion syndrome." There is no scientific proof for these assertions.

Serious, long-term emotional problems after abortion are extremely rare and less common than they are after childbirth. Such problems are more likely if

- the pregnancy was wanted but the health of the fetus or the woman was jeopardized
- having an abortion is related to serious problems in a relationship or other disturbing life events

- a woman already has emotional problems

If you need to talk with someone after an abortion, abortion providers can offer follow-up counseling or refer you to a counselor.

What about future pregnancies?
Will an early abortion affect my ability to have a child?

No. Safe, uncomplicated, legal abortion should not affect fertility.

Does an early abortion make miscarriage more likely?
No.

Does an early abortion make ectopic, or tubal, pregnancy more likely?

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Not unless an infection occurs. Sexually transmitted infections can cause ectopic pregnancies. Infection occurs in only one out of 100 first-trimester abortions.

Does an early abortion cause premature birth in future pregnancies ?
NO.

Does an early abortion cause birth defects in future pregnancies?
NO.

Does an early abortion lead to low infant birth weight in the future ?
NO.

Does an early abortion, increase the chance of infant death in the future?
NO.

Does having several abortions affect future pregnancies?
No. Abortions do not make it harder to carry a pregnancy to term.

Does abortion cause breast cancer?
No. But abortion does not offer the same protection against breast cancer as a full term pregnancy.

Warning

Hundreds of so-called "crisis pregnancy centers" scare women about abortion. They lie about the medical and emotional effects of abortion. Most often, they give pregnancy tests without professional medical supervision. And they discourage sexually active women from using the most common and effective methods of birth control.

If you think you are pregnant, contact Planned Parenthood at 1-800-230-PLAN, another women's health center, or your private clinician. Or call the National Abortion Federation at 1-800-772-9100.

Order brochures online at the Planned Parenthood bookstore.

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For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free 1-800-230-PLAN.

For more information, please read our E(equent!y Asl~ed Questions.

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Abortion Info: Q&A: Future Preganancies

What about future pregnancies?

- ***Will an early abortion affect my ability to have a child?***
  No. Safe, uncomplicated, legal abortion should not affect fertility.

- ***Does an early abortion make miscarriage more likely in future pregnancies ?***
  No.

- ***Does an early abortion make ectopic pregnancy more likely in the future?***
  Not unless infection occurs after an abortion. Ectopic pregnancies usually result from sexually transmitted infections. Infection occurs in only one out of 100 first-trimester abortions.

- ***Does an early abortion cause premature birth in future pregnancies?***
  No.

- ***Does an early abortfon cause birth defects in future pregnancies ?***
  No.

- ***Does an early abortion lead to low infant birthweight in the future?***
  No.

- ***Does an early abortion increase the chance of infant death in the future?***
  No.

- ***Does having several abortions affect future pregnancies?*** Early abortions done by experienced clinicians that are not followed by complications like infection do not cause infertility. Neither do they make it more difficult to carry a later pregnancy to term. It is unclear whether several abortions in later pregnancy result in a greater risk of miscarriage or premature birth.

- ***Does abortion cause breast cancer?***

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No, but abortion does not offer the protection against breast cancer that having several full-term pregnancies does.

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2002 PPFA AFFILIATE EXCELLENCE AWARDS CRITERIA

Board Development

Clinical Service Expansion and Outreach
Clinical and Social Research
Clinical Training
Community Education
Shannon Lowney/Lee Ann Nichols Award for Innovative Medical Services
Ruth Mott Rawlings Mott Award for International Excellence (a $10,000 award)
Winston E. Forrest Jr. Award for Excellence in Private Fundraising
Marketing, Media, and Public Relations
Professional Education and Training
Public Affairs
Special Efforts Serving Teens
Volunteer Excellence
*Achievements in Diversity
*Winner chosen from among the regional PePe Award winners. The Achievements in Diversity Award will be presented with the Affiliate Excellence Awards at the annual conference.

BOARD DEVELOPMENT

- 100 percent of board making financial contribution and participates in fundraising [mandatory].
- Active Nominating Committee is guided by model bylaws and procedures to ensure a multi-skilled and broadly representative board membership.
- All board members participate in formal orientation and ongoing training programs.
- The board has clarity of role and function: board job descriptions clearly delineate board roles and differentiate between governance/policy determination and management (CEO function).

- The board is future-oriented: a majority of its time is spent developing a vision of the organization; setting the organization's direction, goals, objectives, strategies, and priorities; and stabilizing policies to guide the operation of the agency.
- Leadership is shared among members according to abilities; decision-making is participative.
- Board diversity is representative of the civilian labor force.
- Board members participate at regional and national levels.
- All board members actively participate in public affairs. (Prepared by: PPFA Affiliate Services Division)

CLINICAL AND SOCIAL RESEARCH

- Initiation and/or participation in scientific research [mandatory].

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- Research with recognized widespread impact on clinical practice or program services.
- Innovative research that helps define the health desires and needs of women (i.e., qualitative research involving focus groups and/or other interview techniques).
- Behavior-related research, leading to notable changes in individual health practices (contraceptive, sexual, health care seeking).
- Publication of original research in a peer review journal.

- Extensive involvement in multicenter research in any of the above research categories. (Prepared by: PPFA Medical Affairs Division)

CLINICAL SERVICE EXPANSION AND OUTREACH

- Affiliate offers core services, complementary services, and community outreach.
- The expansion meets expressed community needs.
- A business plan and a marketing strategy are developed.
- The expansion increases affiliate's ability to attract new and maintain existing clients.
- The affiliate meets or exceeds PPFA medical standards and quality assurance standards. (Prepared by: PPFA Medical Affairs Division)

CLINICAL TRAINING

- Offers and/or has expanded ongoing reproductive health training for medical students, residents, and other clinicians [mandatory].
- Offers at least one annual continuing medical education training for affiliate clinical staff [mandatory].
- Offers continuing medical education training for non-affiliate clinicians.
- Efforts to increase abortion providers through pelvic ultrasound training, MVA training, surgical abortion training, and/or medical abortion training. (Prepared by: PPFA Medical Affairs Division)

COMMUNITY EDUCATION

- Program reaches new and diverse populations.
- Employs effective evaluation strategies to measure outcomes and impact.
- Innovative program design.
- Development and replicability of materials, curricula, audiovisuals, etc.
- Percentage of budget allocated to education exceeds Planned Parenthood national average of 6.5 percent.
- Credentials/accomplishments and stability of staff.
- Significant educational resources available to the community:Web site, hotline, etc. (Prepared by: PPFA Education Department)

FUNDRAISING

The affiliate should have a fundraising plan that is developed cooperatively by staff and board, and monitored and evaluated on a regular schedule. The plan should include a schedule for mailings to prospective donors and current donors, a program for volunteer cultivation of donors, personal solicitation of donors and cultivation events, a program to seek foundation and corporate support, and a bequest and planned giving program in place or in the planning stage.

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- Board and staff should demonstrate collaborative efforts and joint commitment to developing community support of the highest order.
- The fundraising program should show an annual increase in support from the community in both funds and numbers of donors.
- The plan and the progress made toward meeting its objectives should be monitored and evaluated annually.

- Board contributions should reflect 100 percent participation with gifts at whatever level is commensurate with ability to contribute. (Prepared by: PPFA Development Division)

PROFESSIONAL EDUCATION AND TRAINING

- Programs demonstrate growth and reach new and diverse audiences.
- Effective evaluation strategies to measure effects of content and presentation (did programs accomplish what they set out to do?)
- Training meets needs of participants in areas not well covered by other programs.
- Programs are developed in collaboration with other agencies and/or departments within the affiliate.
- Income is derived from fees-for-service and grants.
- Creativity.
- Development and replicability of materials (printed lesson plan/curriculum/program and materials such as handouts, overheads, and videos.) (Prepared by: PPFA Education Department and PPFA Medical Affairs Division)

RUTH MOTT RAWLINGS MOTT AWARD FOR INTERNATIONAL EXCELLENCE

- Appointment of an international advocate and an active and operating International Affairs Committee of the board of directors [mandatory].
- Significant public affairs involvement re: support for international family planning programs (e.g., overturn of restrictive policies, increased U.S. government funding for international family planning) [mandatory].

- Public education about conditions in developing nations, need for family planning, successful family planning programs, etc. [mandatory].
- Ongoing contact with elected representatives to alert them to international family planning issues and to request their support [mandatory].
- Record of hosting and/or providing speakers at a conference on international family planning.
- "Sister" relationship with an FPIA project and/or maintaining regular communication with an overseas family planning program.
- Direct provision of funds and/or technical assistance to a family planning program overseas.
- Role as host to a foreign visitor.
- Regular publication of international family planning/world population and related stories in affiliate newsletter.
- Notification of volunteers in a timely fashion regarding international issues pending before Congress.
- Traditional and nontraditional coalition building with organizations to work on international family planning, public policy and funding issues.
- Leadership position in coalition activities with environmental, international relief and other international organizations.
- Sponsorship of/participation in community forums or events that

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contribute to the community's understanding of the global implications of family planning and reproductive rights. (Prepared by FPIA/PPFA and PPFA Public Policy Division)

MARKETING, MEDIA, AND PUBLIC RELATIONS

- Innovation in devising and implementing grassroots public relations and marketing projects that reached out to the community and/or enhanced the image of Planned Parenthood.
- Initiatives in long-term marketing and public relations planning, goal setting, and strategy development.
- Demonstrated progress in developing relationships with the print and broadcast media.
- Effective promotion of specific Planned Parenthood programs or initiatives.
- Initiative that positions Planned Parenthood as the leading provider of reproductive health care in the community.
- Publicity efforts that successfully confronted negative opposition publicity.
- Successful marketing effort that results from innovative planning with limited resources.
- Marketing effort that results in increased number of clients. (Prepared by PPFA Marketing Division and PPFA Public Policy Division)

SHANNON LOWNEY / LEE ANN NICHOLS AWARD FOR INNOVATIVE MEDICAL SERVICES

- Improved medical service(s) that have been optimized and reflect a higher quality of care [mandatory].
- Created and developed new and innovative medical services [mandatory]. e.g.: Primary care, domestic violence screening, rape crisis care, services for men, couple's contraceptive services.
- At least one annual continuing education experience in family planning, reproductive health care, or other women's health areas.

- Effective QA program.
- Innovative use of technology (Prepared by: PPFA Medical Affairs Division)

PUBLIC AFFAIRS

Outreach and Grassroots Organizing

Demonstrated superior outreach to the public as evidenced in:

- o Community/political experts serving on affiliate public affairs committee
- o Effective mobilization of staff, clients, and volunteers for community action
- o Development of programs to raise awareness of issues in the community
- o An active and operating alert network or other method for rapidly disseminating legislative information
- o Perception of the affiliate as a clearinghouse for legislative and issue-related information
- o Newsletters or action alerts to affiliate advocates and donors
- o Outreach or efforts to organize constituencies in non-turf areas

[000043]

- o Ongoing relationship with members of the media resulting in coverage that effectively represents Planned Parenthood

Legislative

Leadership position in responding to state and national legislation by:

- o Maintaining a lobbying program and communicating with members of the state legislature
- o Functioning as a resource for state legislative information
- o Initiating at least one visit with members of Congress and each state legislator to lobby on our issues
- o Initiating letter writing, petition, or postcard campaigns to members of Congress
- o Offering a clinic tour for each new member of Congress and for those members who have not toured within the past five years o Honoring a pro-choice elected official in the past 12 months o Running public education campaigns promoting its position on legislative proposals

Partnership

The affiliate works with organizations and individuals to reach its goals by:

- o Being a member of or taking a leadership position in state and local choice coalitions
- o Creating or strengthening state or local "For Choice" or advocacy groups including clergy, physicians, lawyers, students, etc.
- o Establishing ad hoc groups to address pressing issues on an interim basis

- o Facilitating staff representation on local and state task forces and committees on issues pertaining to reproductive health, including health care reform, sexuality education, teen pregnancy prevention, etc.

Other

Projects above and beyond those of other affiliates including:

- o Voter registration, education, or get-out-the-vote campaigns
- o Other permissible electoral activities, such as holding forums or debates for candidates
- o Statewide events for advocates
- o Meetings with editorial boards of local newspapers about Planned Parenthood issues (Prepared by: PPFA Public Policy Division)

SPECIAL EFFORTS SERVING TEENS

- Developed innovative clinical or educational programs to meet the needs of adolescents (mandatory).
- Significant expansion of teen patient load (mandatory).
- Produced significant or promising results in reducing unintended adolescent pregnancy.
- Identified growing teen populations within the community that might be under-served or have unique customer service needs (e.g. gay, English as a second language), and implemented a plan to meet their needs.
- Demonstrated significant strides in working with adolescent males.

[000044]

- Achieved significant increase in clinical services to teens of color.
- Developed a successful model of providing comprehensive services for teens through collaborative efforts.
- Conducted substantial research in the area of adolescent sexual behavior.
- Developed successful media/marketing campaign targeted to youth.
- Creative use of young people in educational or clinical programs. (Prepared by: PPFA Teenwire dept., Education dept.)

VOLUNTEER EXCELLENCE

- The affiliate must have an organized volunteer program as evidenced by formal lists, a support structure, and regular assessment. (mandatory)
- The affiliate must include the volunteer program in overall planning and supporting the affiliate's mission. (mandatory)
- The affiliate must have developed measurable outcomes for its volunteer programs.
- The affiliate must have a formal recognition program for volunteers. (mandatory)
- The Volunteer Program must have developed appropriate diversity, including youth, cultural, and ethnic diversity; recruitment from and collaborations with non-traditional partners. (mandatory)
- The affiliate annual financial report measures in-kind contributions of volunteers.
- The Volunteer Program includes retention elements (average age of volunteers, length of service)

(Prepared by: PPFA Task Force on Volunteers in the New Millennium)

[000045]

plannedparenthooddotorg

Positions with Planned Parenthood Affiliates

Position Title: Medical Director
Agency: Planned Parenthood Association of the Mercer Area
Location: Trenton, NJ area
Status: 6-8 hours/week
Salary: Comensurate with experience
Posted: October 12, 2001

Description:
The Medical Director is responsible for providing medical leadership to this affiliate's Patient Services department and for developing and implementing medical protocols that are consistent with PPFA medical standards and all federal and state regulations. This position is also responsible for representing PPAMA in the medical community and providing other departments at the affiliate with medical background and leadership.

Qualifications:
Interested candidates must be an OB/GYN or family practice physician licensed to practice medicine in N J, with training and experience in routine gynecology, family planning, colposcopy, mid-life services and first trimester abortions. Board Certified candidates are preferred. Candidates should also be experienced in medical administration, have excellent communication skills andbe prepared to provide medical in-service education. Understanding of and strong personal

commitment to the philosophy of Planned parenthood is essential.

Send or fax resume, cover letter, and salary requirements to:
Executive Director
Planned Parenthood Association of the Mercer Area 437 East State Street trenton, NJ 08608
FAX: 609-989-4846

[000047]

Positions with Planned Parenthood Federation of America

Position Title: Clinical Services Manager **Division/Dept**: Medical Affairs
Reports to: Director of Clinical Affairs Location: NY
Grade: G Exempt
Salary: Commensurate with Experience
Posted: October 19, 2001

Purpose
Provides advice and guidance to PPFA affiliates, other national office divisions, consumers, the media, and professional colleagues to develop and support high quality medical standards and services. Assists with affiliate medical quality assurance, research projects, medical education, and the development of Medical Standards and Guidelines.

Duties and Responsibilities

- Develops, revises and updates PPFA Medical Standards and Guidelines to ensure affiliate providers have appropriate practice standards.
- Responds to affiliate and other Federation inquiries regarding PPFA standards and other medical issues.

- With the assistance of the Director of Clinical Affairs, develops subcommittee agendas for the National Medical Committee; prepares documentation needed for committee members; and performs or coordinates follow-up activities to ensure committee has access to necessary materials and information to conduct deliberations. Ensures decisions are communicated to appropriate parties.
- Represents the Medical Division on interdivisional and Federation-wide medical services projects to ensure PPFA and affiliates establish and meet high and consistent standards for emerging medical services.
- Assists the Medical Director and/or Director of Clinical Affairs in the development of clinical educational programs and materials, such as the Medical Digest and audio-conferences.
- Responds to affiliate requests for approvals of services, research, and waivers.

[000048]

- Serves as PPFA liaison with other health care and advocacy organizations.
- Completes additional duties as required.
- Performs administrative oversight of affiliate research approval process, providing guidance to the Medical Data Manager as needed. Reviews project proposals and provides technical assistance to affiliates in the area of research.
- Participates in and/or coordinates special research projects as assigned.

Position Scope

Responsible for meeting assigned objectives and contributing to the development of departmental work objectives.

Evaluates and recommends changes in programs or activities to improve them.

Problem Solving
Responds to problems or challenges that affect the ability of department to meet assigned goals and objectives. Must research, analyze and integrate information from various sources to determine solution. Decisions affect Medical Affairs, and affiliates' clinical programs and operations effectiveness, as well as interactions with other departments, divisions, affiliates, offices and external partners.

Knowledge
Job duties require comprehensive knowledge of profession obtained through formal educatidn and substantial work experience. Oversees work of vendors, consultants or outside contractors and processes to assure department objectives are met.

Fiscal Responsibility
Responsible for making routine, relatively low-cost expenditures (such as publications and other ro.sotlrces) with prior npproval from stlpervisor or dut)artlllont lioad.

Contacts
Regularly interacts with managers in other departments/divisions/affiliates to integrate work activities and products. Performance assures Medical Affairs division's goals are met. Develops and maintains a network of professional contacts to advance the image and/or operational well-being of department and PPFA Seek: new contacts to expand PPFA's sphere of influence in relation to the department and its programs. Identifies opportunities to

expand program activities, develop work products, and build professional relationships that demonstrate

[000049]

and enhance PPFA's commitment to diversity.

Supervision
No supervisory responsibility, but oversees work of vendors, consultants or outside contractors to assure work meets deadlines and quality standards.

Position Requirements
Education RN, Certified Nurse Practitioner, Certified Nurse Mid-wife, or Physician Assistant (Women's Health or OB/GYN) is required.

Experience: Five to seven years of directly related, progressively responsible professional experience in a clinical environment required with experience in project management. PPFA affiliate experience preferred.

Related Skills or Knowledge: Knowledge of PPFA and affiliate services is desirable. Extensive knowledge/background in health care and health care delivery systems, and reproductive health issues. Excellent interpersonal and oral and written communication skills, including technical (medical) and professional correspondence writing skills. Good critical thinking, problem-solving, research, teamwork, and collaboration skills. Computer literacy including word processing and Internet research skills. Ability to handle multiple tasks simultaneously and be flexible.

Other Requirements: Knowledge of diverse groups, working with a multicultural workforce and sensitivity and appreciation to cultural differences is required.

EXHIBIT 11

[000001]

Behind every choice is a story . . .
1999-2000 Annual Report

A friend told me about Planned Parenthood. Having had health care coverage through my previous jobs, I always thought that I wouldn't be eligible for these services. I checked the Web site, and read about the services and education offered by Planned Parenthood. I was quite impressed. I went without an appointment. I saw women of all races and economic groups. Everyone was treated with respect and attended to quickly. The nurse who saw me was incredible. She explained everything about my pelvic exam in great detail. She was probably the best practitioner I've ever had. — L.B.

PLANNED PARENTHOOD FEDERATION OF AMERICAN, INC.

[000002]

OF REPRODUCTIVE HEALTH CARE
Affiliate Service Summary

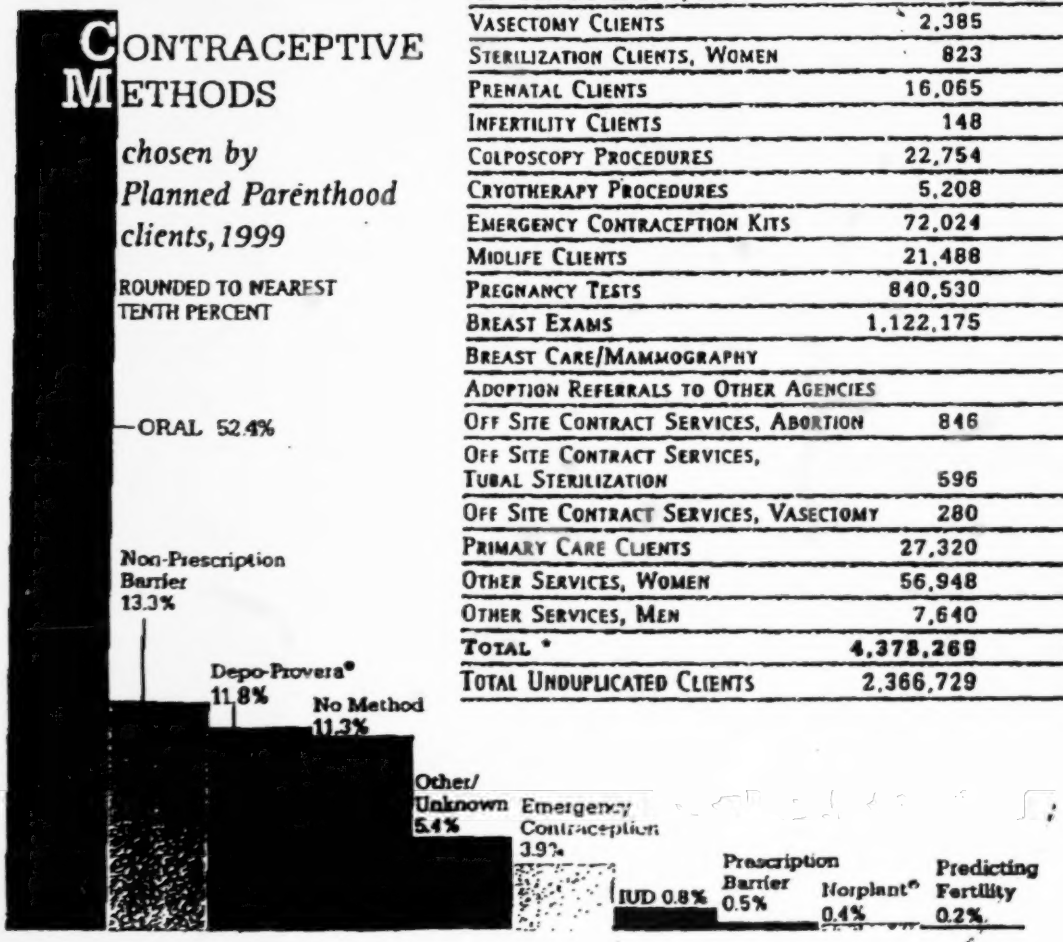
See Foldout Exhibit

Affiliate Service Summary

CONTRACEPTIVE METHODS

chosen by Planned Parenthood clients, 1999

ROUNDED TO NEAREST TENTH PERCENT



	1998	1999	% change	referred out ('98)	referred out ('99)
CONTRACEPTIVE CLIENTS, WOMEN	1,848,106	1,883,374	1.9 %		
CONTRACEPTIVE CLIENTS, MEN	28,054	38,632	37.7 %		
ABORTION PROCEDURES	168,509	182,854	8.5 %		
HIV TESTING CLIENTS, WOMEN	108,569	152,596	40.6 %		
HIV TESTING CLIENTS, MEN	27,801	30,928	11.2 %		
VASECTOMY CLIENTS	2,385	2,445	2.5 %	1,379	790
STERILIZATION CLIENTS, WOMEN	823	902	9.6 %	2,785	2,405
PRENATAL CLIENTS	16,065	19,281	20.0 %		
INFERTILITY CLIENTS	148	516	248.6 %		
COLPOSCOPY PROCEDURES	22,754	29,019	27.5 %		
CRYOTHERAPY PROCEDURES	5,208	5,869	12.7 %		
EMERGENCY CONTRACEPTION KITS	72,024	112,807	56.6 %		
MIDLIFE CLIENTS	21,488	21,086	(1.9)%		
PREGNANCY TESTS	840,530	1,035,486	23.2 %		
BREAST EXAMS	1,122,175	1,100,901	(1.9)%		
BREAST CARE/MAMMOGRAPHY				DATA NOT COLLECTED	9,382
ADOPTION REFERRALS TO OTHER AGENCIES				4,892	2,999
OFF SITE CONTRACT SERVICES, ABORTION	846	166	(80.4)%		
OFF SITE CONTRACT SERVICES, TUBAL STERILIZATION	596	427	(28.4)%		
OFF SITE CONTRACT SERVICES, VASECTOMY	280	75	(73.2)%		
PRIMARY CARE CLIENTS	27,320	20,136	(26.3)%		
OTHER SERVICES, WOMEN	56,948	66,052	16.0 %		
OTHER SERVICES, MEN	7,640	9,229	20.8 %		
TOTAL *	4,378,269	4,712,781	7.6 %	9,056	15,576
TOTAL UNDUPLICATED CLIENTS	2,366,729	2,600,956	9.9 %		

*Y clients received multiple services, they are counted in each service
NOTE: Some affiliates have made corrections to their 1998 reports and not all numbers will match last year's report.

000002

[000003]

PLANNED PARENTHOOD FEDERATION OF AMERICA

responsible choices® in action. . .

1998-99 ANNUAL REPORT

[000004]

See Foldout Exhibit

Affiliate Service Summary

SUMMARY

	1997	1998	% CHANGE	REFERRED OUT, 1997	REFERRED OUT, 1998
CONTRACEPTIVE CLIENTS, WOMEN	1,873,327	1,848,106	(1.3)		
CONTRACEPTIVE CLIENTS, MEN	25,053	28,054	12.0		
ABORTION PROCEDURES	165,174	167,928	1.6	47,550	36,870
HIV TESTING CLIENTS, WOMEN	92,199	108,569	17.7		
HIV TESTING CLIENTS, MEN	32,266	27,801	(13.8)		
VASECTOMY CLIENTS	2,474	2,385	(3.6)	5,715	1,379
FEMALE STERILIZATION CLIENTS	721	823	14.1	8,994	2,785
PRENATAL CLIENTS	17,246	16,065	(6.8)	80,115	67,052
COLPOSCOPY PROCEDURES	21,340	22,754	6.6		
CRYOTHERAPY PROCEDURES	5,167	5,208	0.8		
EMERGENCY CONTRACEPTION CLIENTS	39,245	72,024	83.5		
MIDLIFE CLIENTS	23,060	21,488	(6.8)		
PREGNANCY TEST PROCEDURES	674,399	678,988	0.7		
PREGNANCY TEST & PELVIC EXAM PROCEDURES	158,594	161,542	1.9		
ADOPTION REFERRALS TO OTHER AGENCIES				9,381	4,892
PRIMARY CARE CLIENTS	24,064	27,320	13.5		
OTHER SERVICES				114,410	106,019
OTHER SERVICES, WOMEN	102,461	57,096	(44.3)		
OTHER SERVICES, MEN	26,172	7,640	(70.8)		
TOTAL*	3,284,981	3,253,791	(0.9)	273,232	220,358
TOTAL UNDUPLICATED CLIENTS	2,330,065	2,364,854	1.5		

*IF CLIENTS RECEIVED MULTIPLE SERVICES, THEY ARE COUNTED IN EACH SERVICE.

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[000005]

Planned Parenthood®

PRESS RELEASE

FOR IMMEDIATE RELEASE
February 9, 1998

CONTACT: Adina Wingate-Quijada - 520/620-0880

Planned Parenthood Federation of America Announces Disaffiliation of Planned Parenthood of Hawaii

Planned Parenthood Federation of America (PPFA) President Gloria Feldt today announced the decision of the PPFA Board of Directors to disaffiliate Planned Parenthood of Hawaii, Inc.

"Disaffiliation always is taken very seriously and, according to our records, has happened only twice in this organization's 80-year history. In this case, it means that, after years of tireless attempts to remedy serious financial and administrative issues, Planned Parenthood of Hawaii has failed to meet the standards of affiliation and we must sever our relationship," said Ms. Feldt.

"The standards of affiliation are established by the affiliate membership of the federation for the protection of our clients and our affiliates, and the integrity of the Planned Parenthood service mark. These standards have helped establish Planned Parenthood's reputation as the most trusted name in women's health," Ms. Feldt said.

Planned Parenthood of Hawaii, a locally governed statewide organization that operates three clinics on Oahu, Maui, and

the Big Island, was notified today about the decision made by the PPFA Board of Directors at its meeting February 7.

The decision to sever ties with the affiliate in Hawaii ended a three-year peer review process initiated by PPFA in 1995, when the affiliate failed to meet financial and governance standards during its regularly-scheduled accreditation review. Each of the 137 Planned Parenthood health care organizations, which operate 900 local health care centers nationwide, undergoes accreditation review every four years.

"We will work directly and diligently with the Planned Parenthood of Hawaii staff and board members to complete the disaffiliation by March 1998," Ms. Feldt added.

"Planned Parenthood is committed to serving the people of Hawaii. We will actively explore and pursue every avenue to continue providing family planning and reproductive health care services that are wanted and needed by the thousands of women, men, teens, and families of Hawaii who have relied on us in the past," said Ms. Feldt.

"The public trust given to Planned Parenthood by our patients and supporters in Hawaii calls for nothing **[000006]** less," Ms. Feldt added.

PPFA Press Release listing

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[000007]

LexisNexis

The Associated Press State & Local Wire

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June 12, 2001, Tuesday, BC cycle

SECTION: State and Regional

LENGTH: 155 words

HEADLINE: Family Planning Centers hope to become Planned Parenthood, again

DATELINE: HONOLULU

BODY:
Family Planning Centers of Hawaii may become **Planned Parenthood** of Hawaii once again.

The Planned Parenthood Federation of America accreditation committee will hear a recommendation to reinstate the Hawaii organization, which lost its affiliation three years ago. Family Planning Centers said it lost accreditation because it didn't want to be governed by a mainland group.

The national group said the Hawaii affiliate was not maintaining accreditation standards, bringing into question financial and administrative issues.

The two groups have sinceresolved their differences.

Barry Raft, the executive director of the Family Planning Centers, said being cut loose from the national organization "gave us a chance to refocus. The organization grew and strengthened."

But he's hoping to become a part of Planned Parenthood again.

"It will put the strength of a national organization behind us," Raft said.

LOAD-DATE: June 13, 2001

[000008-000009]

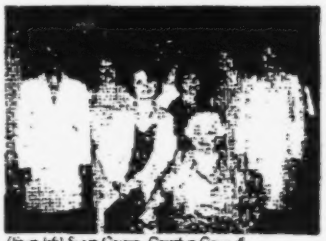
Planned Parenthood FACTS
See Foldout Exhibit

Planned Parenthood of North Texas, Inc.

FACTS

FIRST ANNUAL FORT WORTH LUNCHEON IS A SOLD OUT SUCCESS

The Colonial Country Club was the site for Planned Parenthood's first Fort Worth annual luncheon on Thursday, April 26th. Over 260 people were on hand at this sold out event to hear Liz Carpenter reminisce and discuss her latest book *Start With A Laugh: An Insider's Guide to Roasts, Toasts, Eulogies, and Other Speeches*. Ms. Carpenter kept her audience highly entertained with anecdotes and memories based on her long career in government and politics and proved that she is, indeed, a Texas legend and a rare treasure.



(From left) Susan Gaston, Gretchen Crowell, Jane Conner, Jill Davis, Sue Catterton, Liz Carpenter (consult), Carol Hendrix and Nikki Hatley

Gross revenues for the luncheon were close to $50,000 for Planned Parenthood of North Texas, an impressive first year showing. Credit for the success of this event goes to Jane Conner, luncheon Chair and Board Member, who worked tirelessly to coordinate the luncheon and seek support from the Fort Worth community. Assisting Jane in this effort were committee members Carol Hendrix, Susan Gaston, Nikki Hatley, Sue Catterton, Gretchen Crowell, Jill Davis and Paul Williams. Thanks are also in order to Melinda Bronstad of Show Plants and Flowers, who donated the lovely floral arrangements for the tables, and to Rhonda Hole, who volunteered her photography services for coverage of the luncheon.

Even as a successful first year effort concludes, plans are being made for next year, so watch the newsletter for the announcement of next year's luncheon date and speaker.

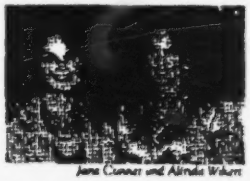
PPNT looks forward to seeing you there!

BLUE MESA

The Blue Mesa Grill in Fort Worth is hosting a wrap party in May to express appreciation for those who contributed money, time and effort toward the Fort Worth luncheon. Blue Mesa owners Liz and Jim Baron have graciously donated space in the restaurant, along with beverages and appetizers.

Liz Carpenter and Jane Conner

Carol Hendrix and Jim Rolenck

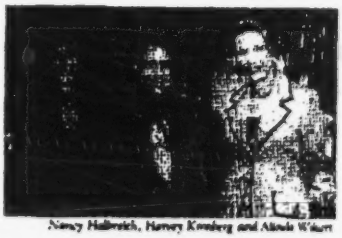


Jane Conner and Alinda Wikert

HALBREICH FAMILY HOSTS MAJOR DONOR RECEPTION

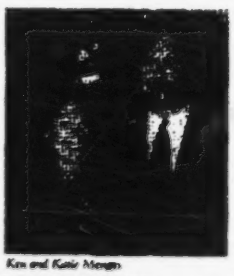
Planned Parenthood of North Texas thanked its current major donors during a reception held at the home of Nancy and Jeremy Halbreich on Thursday, April 19th.

Cecilia Boone, Board Chair, welcomed the group of 80 people, gave an update on agency programs and projects as well as introduced the evening's speaker, Harvey Kronberg. Mr. Kronberg is the editor of *The Quorum Report*, a non partisan newsletter focusing on Texas politics and government. Mr. Kronberg has been covering Texas politics since 1980 and has been called the Capitol's most astute observer. He spoke about our current legislative session and commented on the need for the passage of a Medicaid waiver for family planning in the state of Texas.



Nancy Halbreich, Harvey Kronberg and Alinda Wikert

Many thanks to the Halbreichs for their hospitality and for the use of their beautiful home. Thanks and appreciation also to Janie McGarr for her work in organizing and coordinating a lovely evening. And last, but certainly not least, a heartfelt thank you to all of Planned Parenthood's major donors, whose financial contributions and ongoing support allow us to thrive and grow.



Ken and Katie Mangin

Jill Davis and Janie McGarr

Karen Fearon and Jeremy Halbreich

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PPNT RECEIVES TOP HONORS WITH PPFA ACCREDITATION

PPNT recently went through the Planned Parenthood Federation of America accreditation review. This is a periodic appraisal of the affiliates' standards, policies and practices. The goal is to ensure that PP affiliates adhere to the standards that have been adopted by the membership and/or promulgated by the PPFA Board of Directors. This group seeks to ensure that PPFA's high degree of professional competency is maintained. The review is in-depth and very thorough.

The first part was an off-site survey of affiliate documents to determine adherence with Medical and Affiliation Standards. PPNT sent all affiliate documents in for review in February. The feedback was very complimentary and the affiliate was encouraged to share their protocols with other affiliates for use as model documents.

The second part was an on-site visit by a team of surveyors who reviewed additional documents, observed medical services, counseling sessions, surgical services and interviewed staff.

PPNT once again received full accreditation, which denotes full compliance with all standards, policies and requirements. Our accreditation was granted for a four-year period. The audit team was so impressed that they sought to recruit our Director of Medical Services to assist them periodically in future surveys of other affiliates.

The PPFA accreditation team was especially impressed with the leadership of Jim Roderick and the skills of the clinic staff. They also commented on the degree of professionalism that was apparent among PPNT staff and volunteers while hosting the national convention and the affiliate reception; they stated that it was the "best affiliate reception" they had ever attended.

We are proud of the quality of work that is done in our clinics on a day to day basis and pleased to have this acknowledged by PPFA.

2001 RELIGIOUS SYMPOSIUM HELD IN CONJUNCTION WITH PPFA NATIONAL CONFERENCE

Building upon the excitement of Planned Parenthood Federation of America's annual conference in Dallas, PPNT co-sponsored a half-day symposium for national and local faith community leaders on March 29. More than 75 people attended. The event, "Balancing Technology, Spirituality and Sexuality," provided an opportunity for clergy to explore this vital topic with colleagues and professionals from other disciplines.

A committee of local clergy leaders and Planned Parenthood staff organized the program, selecting topics most relevant to congregational work. Experts in the field led round table discussions. Areas explored included: integrating the impact of sexuality related technology with the spiritual needs of congregants, genetic forecasting, fetal development, issues around infertility treatment and access to information on the Internet.

The keynote speaker was Debra Haffner, nationally known as former President and CEO of the respected Sexuality Information and Education Council of the United States (SIECUS) and as creator of the National Commission on Adolescent Sexual Health and the author of the *Religious Declaration on Sexuality, Morality, Healing and Justice*. She is currently pursuing a divinity degree.

Debra Haffner, Keynote Speaker

Ms. Haffner emphasized the need for members of faith communities representing all viewpoints to search for common ground in order to affect change. She also wrote an opinion piece that appeared in *The Dallas Morning News*, thereby broadening the scope of her message.

The high level of enthusiasm in the room was evident as clergy participating in the round table discussions openly shared their experiences and areas of concern and responded to the information provided by the experts. Later, questions posed to the experts during a panel discussion triggered conversations that continued long after the session.

Response to the event was extremely positive. Clergy Advisory member Rabbi Ralph Mecklenburger, of Beth-El Congregation in Fort Worth, felt that the symposium was "well worth the drive over to Dallas. Dr. Jeffrey Bishop [medical ethicist, attorney and Episcopal clergyman] was particularly interesting and stimulating, and we made tentative plans to get together to see what other kinds of inter-faith discussions can continue."

Panel Members: Clive Kerner, John Hendricks, Jeffrey Bishop, Rev. David McFarlane and Moderator: Rev. Ken Fleishman

The Clergy Advisory supports the efforts of our Planned Parenthood affiliate to ensure access to reproductive health services and medically accurate sexual health related information for all North Texans. For further information, please contact Kathryn Allen or Jackie Bennett at (214) 363-2004.

Conference Attendees

CONSIDERABLE QUEST

[redacted] At PPNT, all bequests are [redacted] efforts that the donors who [redacted] organization, even after their deaths. [redacted] behalf of all of PPNT's future clients, thank you for thinking about the future and for making Planned Parenthood's work possible.

If you are interested in more information about bequests, please contact Joan Rouch at (214) 369-2004.

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[000010]

The PRO PAPER
Pro-Choice Pro-Family Pro-Active Pro-Children Pro-Health Pro-Women

The Newsletter of Planned Parenthood of Collier County Winter2001

Board of Directors

Polly Barton, JoAnn Boydston, Peggy DeFlavis, Marc Gertner, Dr. Gary Gilgore, Sharon Hanlon, Richard Koff, Sally Lam, Chuck Mohlke, Jane Perman, Nancy Reynolds, Renee Rosch-Lewis, Beverly Smith, Maureen Sullivan-Hartung, Isabel Collier Read (Honorary Member)

Executive Committee

Renee Rosch Lewis, Chair
JoAnn Boydston, Vice Chair
Maureen Sullivan-Hartung, Secretary
Nancy Reynolds, Treasurer

THE PERSONAL IS POLITICAL...
from our President and CEO, Char Wendel

All of us at Planned Parenthood of Collier County (PPCC) wish you a happy and healthy New Year and appreciate your ongoing commitment to affordable and accessible reproductive health care for all people in our county. At the Annual Meeting of our Board of Directors our board chair, Renee Rosch-Lewis, highlighted some of PPCC's accomplishments over the past year that were possible because of the continued support and commitment of the board, staff, and donors.

These accomplishments included developing and implementing a strategic plan to meet the continued need for services in our county, producing "Speak Up-Speak Out", our radio talk show by and for teens, being the recipient of the first American Association of University Women, Naples branch mission award for the organization that best exemplifies the mission of AAUW of "promoting equity for women and girls, life long education and positive societal change", receiving a glowing report from Planned Parenthood Federation of America's (PPFA) Accreditation Team, winning a computer from PPFA for our success in signing up so many people to participate in the *Responsible Choices Action Network,* surviving a biochemical terrorist anthrax threat, and providing family planning health care services to over 4000 women and girls throughout Collier County and educational outreach services to over 4500. Remember, we couldn't have done any of this without your friendship and support.

In addition to our accomplishments in Collier County, many dramatic steps have been taken on the National level in 2000 to ensure women access to the full-range of reproductive health care services and freedom from political intrusion. The Equal Employment Opportunity Commission (EEOC) issued a ruling that an employer's failure to cover prescription contraceptives in an employee health benefits plan that covered prescription medicines constituted unlawful sexual discrimination. The American Medical Association (AMA) expressed support of making emergency contraception available without a prescription. The Food and Drug Administration (FDA) approved the use and distribution of Mifepristone in the United States. Mifepristone, formerly known as RU-486, is an early medical abortion that has been available in Westem Europe since 1988.

Although as pro-choice people we had much to celebrate last

year as the New Year begins we must reaffirm our commitment to reproductive freedom and be vigilant in defending reproductive rights and health from very real threats. While we applaud President-elect Bush's first Cabinet appointment, Gen. Colin Powell who has been outspokenly pro-choice and an advocate of human rights, we must be *(continued on page 2)*

Confidentiality. . .
Is not only for our clients, it's also for our donors. PPCC has a long-standing policy of not identifying donors. The names of our donors are not shared, sold or rented to any other organization. We value your support and offer our respect.

[000011]

PPCC and Naples Flowers

Do you want to send that someone special flowers on Valentine's Day?

Surprise the loved ones in your life and have a portion of the proceeds benefit PPCC at the same time.

Naples Flowers and PPCC have joined together to make this Valentine's Day special for everyone.

Call Naples Flowers at 262-7011 to order your flowers for Valentine's Day and remember to tell them that you are a supporter of PPCC and Naples Flowers will donate a portion of the proceeds to PPCC. Go ahead and play Cupid.

PPCC's Display Booth at Subaru Memorial of Naples LPGA

PPCC is pleased to announce that we will be an exhibitor at the Subaru Memorial of Naples LPGA golf tournament held the 15th - 21st of January 2001.

We will have a tent with our information displayed during the weeklong tournament. Stop by and pickup some tees and ball markers with our logo on them and find out about some exciting new developments at PPCC.

about us
The PRO-PAPER is mailed to you to keep you informed of current issues, events and resources available through Planned Parenthood® of Collier County.

President and CEO
Charlene A. Wendel, M.Ed., J.D.

Medical Director
Wallace McLean, M.D.

Vice President of Patient Services
Alice Pinkham, A.R.N.P.

Vice President of Education
Jodi Bisogno, B.A.

Vice President of Public Affairs
Veronica DaSilva, M.S.

Vice President of Finance
Jeff Lawrence, B.S.

We welcome your ideas, contributions,

[000012]

A Tradition of Choice for 75 Years

Planned Parenthood® Federation of America, Inc.

1991 ANNUAL REPORT

[000013]

Continued its Campaign for New Birth Control by publicizing a report of the findings and recommendations from a series of eight conferences held in 1990 in cooperation with leading medical schools and several Planned Parenthood affiliates nationwide. The report, distributed to legislators, public policy makers, and activists, cited five major impediments to the development of new birth control: insufficient funding for research; a shortage of scientists in the field of reproductive biology; lengthy and expensive Food and Drug Administration (FDA) regulations and approval process; fears of product liability laws and the high cost of product liability insurance; and the impact of abortion politics on biomedical science and the pharmaceutical industry.

Provided ongoing professional training through the PPFA Nurse Practitioner Program in Philadelphia. In 1991, 35 professionals graduated from the program and an additional 20 new trainees enrolled. Additionally, the national office organized and cosponsored the 15th Annual Post-Graduate Seminar for Nurse Practitioners in Family Planning, attended by 550 professionals, and sponsored two courses in colposcopy for nurse practitioners.

Continued to monitor the escalating financial and regulatory problems affecting the cytology (Pap test) industry. Planned Parenthood affiliates serve as the nation's leading provider of Pap tests, which, in providing early warning of potential cervical cancer in women, are largely responsible for a 50 percent reduction in the incidence of fatal cervical cancer during the past two decades. Yet the continued availability of this diagnostic test to low-income women, is threatened by spiraling costs, a dwindling number of qualified laboratory professionals, and a burdensome regulatory environment.

Last year, the national office distributed to affiliates a report on the crisis.

Provided technical assistance and background information to other agencies, the medical community, and the media on existing fertility control methods and new options under development. Last year, PPFA directed special efforts to advocate for two new contraceptive-methods:

Norplant® an extremely effective five-year contraceptive implant for women, was approved by the FDA in 1990 and is now offered as a birth control option in 124 affiliates nationwide.

The "female condom," a new barrier contraceptive, helps protect against pregnancy as well as sexually transmitted diseases, including HIV infection. The female condom has been recommended for approval by an FDA committee and is expected to be approved in 1992.

Serving Affiliates

People know they can trust "Planned Parenthood to provide reproductive health services based on exacting, professional standards. PPFA establishes and monitors medical guidelines and protocols to maintain affiliates' outstanding reputation for high-quality **[000014]** medical care. In addition, PPFA's national office provides affiliates with information, technical support, and financial assistance to enhance the delivery of reproductive health care services.

1920s

Women who worked from dawn until night to support large families on meager incomes were typical of the clients of the early birth control clinics.

Last year, the national office:

Awarded a grant to Planned Parenthood of Minnesota (St. Paul) to develop a sell-study program to train nurse practitioners. Recognizing the urgent need for nurse practitioners who are trained to function in an expanded role, national office and affiliate staff worked with other health care experts to develop a curriculum for affiliate-based training. The growth in colposcopy/cryotherapy programs has resulted in a marked increase in the number of midlevel clinicians seeking and acquiring training as affiliate colposcopists.

Revised the PPFA *Manual of Medical Standards and Guidelines* and assisted affiliates in the development of individual protocols for a variety of services. Standardized protocols were approved for the provision of prenatal services and vasectomy, and other standardized protocols were updated. Spanish translations were completed for all new and revised patient fact sheets and consent forms.

Continued to increase awareness of Planned Parenthood career opportunities for health professionals through a national recruitment program, launched in 1990. Last year, through ads in publications for health professionals, a traveling job-fair display, and a toll-free telephone number, the campaign generated 2,163 referrals of clinicians, administrators, educators, and counselors to 156 Planned Parenthood affiliates.

Monitored 91 ongoing affiliate research projects and evaluated and approved 27 new projects. The latter study teen attitudes regarding sexuality and pregnancy, cigarette smoking and cervical disease, condom use, chlamydia testing, and other reproductive health issues.

As part of ongoing efforts to maintain and upgrade the quality of clinical services, conducted 10 quality assurance workshops, involving 500 staff and volunteers from affiliates nationwide; and published a quarterly newsletter on Planned Parenthood's national insurance program.

Administered a continuing purchase agreement with Ortho Pharmaceutical Corporation for oral contraceptives, which produces direct savings to affiliates and their clients of more than $12 million a year.

Responded to hundreds of affiliate requests for medical information and technical assistance. On an ongoing basis, the national office apprised affiliates of medical advances in contraceptive technology, voluntary surgical contraception, screening for breast and cervical cancers, sexually transmitted diseases, proposed federal regulations affecting affiliate delivery of health care, and other family planning and reproductive health concerns.

1965

Estelle Griswold, executive director of the Planned Parenthood League of Connecticut, and Cornelia Jahncke, president, celebrate the Supreme Court decision in Griswold v. Connecticut, *which established the right of married couples to use birth control.*

[000015]

Planned Parenthood® Federation of America

Annual Report
1994-1995

For 79 Years — Continuing the Legacy

[000016]

Mifepristone: Progress on a New Birth Control Option

American women came closer last year to gaining another option for early management of an unwanted pregnancy. Planned Parenthood continued to play a leadership role in efforts to bring mifepristone (the French abortion pill formerly known as RU-486) to the U.S., where it promises to add a new and heartening element to the abortion debate. As a therapeutic method for terminating early pregnancy, mifepristone is an alternative to surgical procedures for women who prefer greater privacy and personal control over the process.

Anti-abortion pressure and threats against mifepristone's French manufacturer, Roussel-Uclaf, stymied years or efforts to make the drug available in the U.S. The situation changed in May 1994, when in response to advocacy by women's health proponents such as PPFA and other organizations, Roussel-Uciaf donated its U.S. patent rights to the Population Council, a nonprofit research institution that conducted clinical trials last year.

Eight Planned Parenthood affiliates were among the selected clinical sites:

- Planned Parenlhood of San Diego and Riverside Counties (San Diego, CA)

- Planned Parenthood of the Rocky Mountains (Aurora, CO)
- Planned Parenthood of Greater Iowa (Des Moines)
- Planned Parenthood League of Massachusetts (Cambridge)
- Planned Parenthood of Central New Jersey (Shrewsbury)
- Planned Parenthood of Westchester and Rockland Counties (White Plains, NY)
- Planned Parenthood of Houston and Southeast Texas
- Planned Parenthood of Northern New England (Williston, VT)

The purpose of the trials, which involved volunteers over the age of 18 who were in the early weeks of pregnancy, was to determine the safety, efficacy, acceptability, and feasibility of using mifepristone and to gather data for submission to the U.S. Food and Drug Administration (FDA) as part of the approval process. The Population Council will facilitate FDA approval and locate a U.S. manufacturer.

The mifepristone regimen, which during the first six weeks of pregnancy is 96-99 percent effective, has already been used by more than 200,000 women in France, Sweden, and the United Kingdom. Mifepristone also has been found to be highly effective as on emergency postcoltal contraceptive, and other potential uses include treatment of breast and prostate cancer, meningiomo, Cushing's syndrome, glaucoma, and endometriosis.

resources offered by PPFA, in 1994-95 the national office published two new pamphlets — *Menopause: Another Change in Life; and Is Depo-Provera® for You? — as well as Facing the Facts,* a sexuality education video kit that captures a 1995 PPFA policy symposium on sexuality education.

Serving Affiliates

Planned Parenthood's national office establishes exacting medical standards and provides information and technical support in all areas of reproductive and sexual health care and their delivery.

In 1994-95, the national office:

- Revised the PPFA *Manual of Medical Standards,* which guides the provision of many affiliate clinical services. Planned Parenthood's more than 900 clinics nationwide provide services that are based on scrupulous medical standards of care, many of which are regarded as standards for the health care industry and used as models by other agencies.

  In 1994-95, as part of an ongoing process, PPFA's national office substantially revised or developed new standards for provision of the cervical cap, the contraceptive diaphragm, non-prescription barrier contraceptives, management of pelvic inflammatory disease, periodic health screening based on age and risk factors, and comprehensive family-practice services, among other services.

- Supported a nationwide, toll free appointment line, 800-230-PLAN, which automatically connects callers to their nearest Planned Parenthood center. The muting system also allows affiliates that share media markers to pool their advertising resources by listing only one convenient telephone number. Calls to the line, which was implemented in 1993, average 4,500 callers per month. In 1994-95, the option of adding a Spanish-language greeting was offered to affiliates that are located in areas with Latino populations. In July 1994, "The Montel Williams

Show," a popular daytime television talk show, proved the value of the toll-free service when it flashed Planned Parenthood's 800 number across the screen during an episode on teen pregnancy. The appearance of the number immediately generated 1,200 calls, six times more than on an average day. Planned Parenthood's 800 number has also appeared in major national women's magazines, such as *Sassy, Essence, Cosmopolitan, and New Woman,* and in the widely read "Dear Abby" syndicated advice column, providing millions of readers with fast, convenient access to Planned Parenthood services.

[000017]

Planned Parenthood
Annual Awards...

Each year, Planned Parenthood recognizes outstanding contributions made by individuals and organizations to the fields of sexual and reproductive health and reproductive rights by presenting several prestigious awards.

- THE PPFA MARGARET SANGER AWARD
  Planned Parenthood's highest honor, was presented in 1994 to Dr. Fred T. Sai, a public health physician from Ghana who has served since 1989 as president of the International Planned Parenthood Federation (IPPF). Dr. Sai co-founded the Planned Parenthood Association of Ghana and formed the Africa Region of IPPF nearly a quarter-century ago. In 1994, he served as conference chairman at the International Conference on Population and Development in Cairo.

- PPFA MAGGIE AWARDS, commending exceptional media coverage of reproductive health issues, were

presented in 1994 to: *The Nation* magazine; The *Concord Monitor; The Chicago Tribune;* Concentric Media, Home Box Office; KSBW-TV (Salinas, CA); and WBBR-AM Radio (New York, NY).

- THE RUTH GREEN AWARD honors a Planned Parenthood affiliate executive director chosen by **[000018]** her or his peers for exemplary board development activities. In 1994, this award was presented to Louise Safron of Planned Parenthood of South Central Michigan (Kalamazoo).

Recognizing outstanding achievements, PPFA's national office in 1994 presented the annual AFFILIATE EXCELLENCE AWARDS in 14 categories to these distinguished affiliates:

Public Affairs
Planned Parenthood of Santa Cruz County (Santa Cruz, CA)

Public Affairs
Planned Parenthood Association of the Atlanta Area

Community Education
Planned Parenthood of Wisconsin (Milwaukee)

Clinical Service Expansion
Planned Parenthood of Central Pennsylvania (York)

Media and Public Relations
Mount Baker Planned Parenthood (Bellingham, WA)

Board Development
Planned Parenthood of Santa Clara and San Benito Counties (San Jose, CA)

Private Fundraising
Planned Parenthood of Santa Barbara, Ventura, and San Luis Obispo Counties (Santa Barbara, CA)

Medical Services
Planned Parenthood of San Diego and Riverside Counties

Planning
Planned Parenthood of North Central Ohio (Mansfield)

Professional Education and Training
Planned Parenthood of Minnesota (St. Paul)

Professional Education and Training
Planned Parenthood of Connecticut (New Haven)

Serving Teens
InterMountain Planned Parenthood (Billings, MT)

Serving Racially Diverse Communities
(PePe Award)
Memphis Planned Parenthood

International Service
Planned Parenthood of Northern New England
(Williston, VT)

ABOUT
PPFA

Planned Parenthood Federation of America, Inc., is the world's oldest and largest voluntary reproductive health care organization. Tracing its origins to the first birth control clinic in America founded in 1916 by Margaret Sanger, Planned Parenthood is dedicated to the principle that every

individual has the fundamental right to choose when or whether to have children.

Planned Parenthood's 21,000 volunteers and staff members nationwide provide medical, educational, and counseling services to meet the family planning needs of more than five million Americans each year.

Planned Parenthood's volunteers, staff, and more than 400,000 donors also serve as vigorous advocates for reproductive freedom for every individual.

Further strengthening Planned Parenthood's commitment to advocacy, the Planned Parenthood Action Fund meets the need for increased lobbying efforts and voter education to preserve the right to reproductive choice.

Planned Parenthood addresses family planning needs around the world through its international program, Global Vision, whose international service arm, Family Planning International Assistance®, assists developing countries; and through its membership in the International Planned Parenthood Federation and the International Service Agencies.

Vital support for Planned Parenthood's programs and services is derived from private-sector contributions, patient fees, government grants, and third party reimbursement for services.

Planned Parenthood Federation of America comprises a national office in New York City; a legislative and public information office in Washington, D.C.; three U.S. regional offices (Atlanta, San Francisco, and Chicago); and 158 affiliates with 938 clinic sites in 49 states and the District of Columbia. PPFA's international family planning efforts

maintain three regional offices(Nairobi, Kenya, for Africa; Bangkok, Thailand, for Asia and the Pacific; and Miami, for Latin America and the Caribbean).

Planned Parenthood's mission is also enhanced by the work of The Alan Guttmacher Institute (AGI), to which PPFA provides support. AGI, a special Planned Parenthood affiliate, is an independent, not-for-profit corporation for reproductive health research, policy analysis, and public education.

Planned Parenthood is a registered service mark.

[000019]

1991 Service Report

The right to decide without interference how to conduct the most personal, private aspects of our lives is fundamental to American democracy. For no right is more essential or more empowering then the right to determine when and whether to bear children.

Yet the freedom of choice in child bearing that we take for granted today was scarcely a dream for most women until the second decade of the 20th century when Margaret Sanger founded America's modern birth control movement. Until then, contraception — now affordable and accessible to nearly all Americans — was obtainable only on the black market, by the fortunate few who could find and afford it. And in those days, the brave women and men who fought for reproductive freedom went to jail.

Sanger's fervent devotion to reproductive freedom grew out of her work as a public health nurse in New York City, where she saw firsthand the devastating effects of

uncontrolled fertility: grinding poverty caused by too many mouths to feed; ill health caused by too many pregnancies, too close together; death, permanent injury, or mutilation caused by unsafe illegal abortions, to which so many women turned in desperation. One night, after watching a young woman die from a botched abortion, Sanger vowed that she could not go back merely "to keeping people alive." She wrote: I went to bed knowing that no matter what it might cost, I was furnished with palliatives and superficial cures; I was resolved to seek out the root of evil, to do something to change the destiny of mothers whose miseries were vast as the sky.

To learn contraceptive techniques, Sanger traveled to Europe, where several methods were widely used. Armed with knowledge and her dream for a better world for women and families, she returned to offer hope to millions of Americans. And in 1916, she opened the first birth control clinic in America in Brooklyn, NY.

After only 10 days, the police closed down Sanger's clinic and arrested her for violating anti-obscenity statutes by discussing and distributing contraceptives. In that short time, the clinic served nearly 500 desperate women and men. More important, it marked the dawn of the Planned Parenthood movement — and it sparked a revolution that forever changed American history.

Over the next several decades, the movement begun by Sanger grew by leaps and bounds, to become a nationwide, volunteer-driven, grassroots effort. Planned Parenthood quickly established its national reputation for integrity, service, and care and won the hearts and minds of the American public — who gathered round the family planning banner in ever increasing numbers. By 1960 more than 20,000 women and men in hundreds of communities were

visiting Planned Parenthood every year for family planning and counseling.

But it was not until 1965 that the family planning cause achieved a central goal that Sanger had pursued from the start. In that year, the U.S. Supreme Court in *Griswold v. Connecticut*, struck down state laws prohibiting the use of contraceptives by married couples. The decision resulted in the immediate liberalization of family planning legislation in 10 states and paved the way for the nearly unanimous acceptance of contraception that now exists in this country.

[000020]

risks. According to the CDF, for every four infants born at very low birth weight, one will be left with moderate to severe disabilities, including retardation, cerebral palsy, major seizure disorders, and blindness. Furthermore, there are great racial disparities in the rates of low birth weight babies: in 1988 fewer than 6 percent of white babies were born at low birth weight compared to 13 percent of African American infants. In response to poor women's need for prenatal care, five affiliates began offering this service in 1990, bringing the total to 26. More than 6000 women received prenatal care at a Planned Parenthood facility in 1990, 49 percent more than in 1989. In 1980 only eight affiliates provided prenatal care serving only 200 women. The prenatal program of Planned Parenthood of Eastern Oklahoma and Western Arkansas (Tulsa, Okla.), which began in 1989, served851 patients in 1990 at two of its service clinic sites. Referrals come from several sources, including a centralized referral service in Tulsa, the Red Cross, and the WIC program. Patients are also seen on the premises of a Tulsa public school for pregnant teenagers.

STERILIZATION SERVICES

affiliates sterilization decline. Has provided vasectomy in 1990, compared to 45 in 1989.

Although the number of affiliates proving vasectomy declined by 9 percent, the number of patients served remained almost the same as in 1989. It is most likely, that those who dropped the service did so because of the decreased demand.

The number of female sterilizations performed by Planned Parenthood declined by 18 percent in 1990. The Planned Parenthood of East Central Georgia (Augusta), through a contract with the state, performed almost half of all female sterilizations performed by Planned Parenthood affiliates in 1990.

The association for Voluntary Surgical Contraception [remainder of text obscured].

CANCER SCREENING

Planned Parenthood affiliates perform a significant service in screening for cancer or pre-cancerous conditions in clients.

The American Cancer Society estimates that approximately 175,000 new cases of breast cancer occur among women in the U.S. each year and that the incidence of the disease has increased about 3 percent per year since 1980. Because early detection and treatment of breast cancer increases the likelihood of survival, Planned Parenthood centers routinely conduct breast examinations and teach patients how to examine their breasts. More than 1.3 million breast examinations occurred in 1990. Of the women

examined, 8,600 were referred for further evaluation and treatment.

Equally important to cancer screening is the Pap smear, which can detect pre-cancerous conditions or cancer of the cervix in early stages. More than 1.53 million Pap smears were performed at Planned Parenthood clinics in 1990, about the same number as the year before. Of these, 3.2 percent, or more than 49,000, showed evidence of conditions requiring further treatment or investigation.

[000021]

Behind every choice is a story . . .
1999-2000 ANNUAL REPORT

A friend told me about Planned Parenthood. Having had health care coverage through my previous jobs, I always thought that I wouldn't be eligible for these services. I checked the Web site, and read about the services and education offered by Planned Parenthood. I was quite impressed. I went without an appointment. I saw women of all races and economic groups. Everyone was treated with respect and attended to quickly. The nurse who saw me was incredible. She explained everything about my pelvic exam in great detail. She was probably the best practitioner I've ever had. — L.B.

PLANNED PARENTHOOD FEDERATION OF AMERICAN, INC.

[000022]

Because of Planned Parenthood, I can afford to have annual exams, including regular Pap tests. It's very important

that I continue to get them because I am a cervical cancer survivor. I was first diagnosed at my Planned Parenthood clinic. I am thankful that Planned Parenthood provides lifesaving services and makes it possible for me to take care of my health. — C.P.

IMPROVING THE QUALITY
Medical Services and Research

Throughout the world, Planned Parenthood is synonymous with high quality, affordable, community-based health care. Having heard women's stories for more than eight decades, our goals are to encourage responsible choice and preserve women's sexual and reproductive health through prevention, education, and self-empowerment.

Some National Office Activities

PPFA national staff are recognized authorities on all aspects of reproductive health, from research and technology to patient care, public information and education, and health care policy. To improve the quality of reproductive health, last year, we

- prepared the 2000 edition of the *PPFA Manual of Medical Standards and Guidelines*, which establishes for affiliates stringent medical protocols that are regarded as standards for the health care industry. Included were new guidelines for screening, evaluation, and managing breast cancer; menopausal services; fetal tissue donation, and the management of emergencies for medical and surgical abortion.

- provided ongoing technical assistance to affiliates involving approval of 42 new patient management

services, including six new medical abortion services and 51 affiliate research proposals.

- published the second edition of *Menopause, Living Well Through Life's Changes — Planned Parenthood Clinical Resource Guide* and *The Planned Parenthood Medical Digest*, a newsletter for Planned Parenthood health care professionals.

The PPFA Nurse Practitioner Program

The PPFA Nurse Practitioner Program, recognized nationally as the industry standard, prepares registered nurses to become highly skilled family planning nurse practitioners. Last year, we

- graduated 34 nurse practitioners

- trained 32 advance practice nurses to perform colposcopic exams

- continued the Women's Health Care Distance-Learning Program for nurses who cannot leave their homes for extended periods of time — the program combines clinical supervision by local professionals with a "virtual classroom" featuring customized interactive software

- hosted more than 400 nurse practitioners, physician assistants, and nurse midwives at the 24th Annual Post-Graduate Seminar for Nurse Practitioners in Women's Health Care

[000023]

PLANNED PARENTHOOD FEDERATION OF AMERICA

responsible choices® in action . . .

1998-99 ANNUAL REPORT

[000024]

IMPROVE THE QUALITY OF REPRODUCTIVE HEALTH CARE

MEDICAL SERVICES AND RESEARCH

Throughout the world, Planned Parenthood is synony/mous with high quality, affordable, community-bases health care. Our hallmarks are prevention, education, and self-empowerment to encourage responsible choices.

SOME NATIONAL OFFICE ACTIVITIES

The PPFA national office is an esteemed authority on all aspects of reproductive health, from research and technology, to patient care, public information and education,, and healthcare policy. To improve the quality of reproductive health care, last year we prepared the 1998 edition of the *PPFA Manual of Medical Standards and Guidelines*, which establishes stringent medical protocols for affiliates that are regarded as standards for the health care industry. Included were new guidelines for the provision of methotrexate surgical abortion, very early surgical abortion, emergency contraception kits, and emergency contraception via telephone.

Reviewed and evaluated new contraceptives, cervical cancer screening technologies, methods for the diagnosis and treatment of sexually transmitted infections, and other technologies that enhance women's health.

Completed a six-year retrospective analysis of the safety of birth control pills, which found that cardiovascular problems among users are extremely rare.

Published a *Handbook for Prenatal Care Providers* and *The Planned Parenthood Medical Digest*, a resource for Planned Parenthood health care professionals.

The PPFA Nurse Practitioner Program, recognized nationally as the industry standard, prepares registered nurses to become highly skilled family planning nurse practitioners. In 1998 we graduated 32 nurse practitioners trained 34 advance practice nurses to perform colposcopic.

Trained 40 registered nurses to become ob/gyn nurse practitioners.

Continued the Women's Health Care Distance-Learning Program for nurses who cannot leave their homes for extended periods of time. The program combines clinical supervision by local professionals with a "virtual classroom" featuring customized interactive software.

Hosted more than 400 nurse practitioners, physician assistants, and nurse midwives at the 23rd Annual Post-Graduate Seminar for Nurse Practitioners in Women's Health Care.

[000025]

PLANNED PARENTHOOD®
FEDERATION OF AMERICA, INC.

RESPONSIBLE Choices

1997-98 ANNUAL REPORT

[000026]

National Office Activities

The Planned Parenthood national office is recognized worldwide as an authority on all aspects of reproductive health. We monitor reproductive technology; instigate groundbreaking research; provide guidance to our affiliates and other health care providers; advise government health agencies and the pharmaceutical industry; serve on advisory and educational boards; offer leadership in professional symposia, and field hundreds of inquiries each year from the public and the media. Among our many activities in 1997-98:

By analyzing affiliate reports of client health outcomes, we identified important trends in reproductive health care. Reports included *Pregnancies Diagnosed During Norplant® Use, Pregnancies Diagnosed During Use of Depo-Provera®, and Experience with Norplant over the last Five Years.*

Our two-year study on using methotrexate and misoprostol to induce early abortion without surgery was completed. Twenty-seven affiliates enrolled more than 1,900 volunteers nationwide. Preliminary results confirm earlier studies that showed this method to be safe and highly effective. We also developed protocols to guide affiliates in offering this service

— the only currently available method of medical abortion in the U.S.

To evaluate a promising new monthly injectable contraceptive, we coordinated a clinical trial of Cyclo-Provera®. Eight affiliates participated in this ongoing study, enrolling 188 women. Preliminary results are extremely promising.

We monitored 133 other ongoing affiliate research projects and reviewed 47 new requests to initiate research.

To support our aggressive, three-year Emergency Contraception (EC) Public Awareness Campaign, we secured two grants totaling $2.6 million. This nationwide program will bolster affiliates' efforts to increase client access to EC and encourage other clinicians to provide their clients with information about EC as a routine part of reproductive health care. It will also directly provide women at risk of unintended pregnancy with information about EC that will encourage them to ask their clinicians for it — EC won't be a secret anymore!

Serving Affiliates

To support Planned Parenthood affiliates in providing the finest reproductive health care, the national office establishes stringent medical protocols, oversees quality assurance, provides continuing medical education, and offers many forms of technical assistance. Our exacting requirements are regarded as standards for the health care industry and are widely used by other agencies. Among our many activities in 1997-98:

We revised the *PPFA Manual of Medical Standards* with significant updates regarding the provision of emergency contraception, cancer screening and evaluation, IUDs, and medical and early surgical abortion. We also increased access to hormonal contraceptives by developing guidelines for optional physical exams.

For continuing medical education for affiliate clinicians, we offered a range of opportunities, including workshops, a training video, and a facilitator's guide on quality assurance as well as an audio conference on chlamydia that reached 643 participants.

Our third annual Health Care Institute, attended by 250 affiliate staff members, was held in Montreal, Quebec. Workshops were dedicated to making services more customer-centered, efficient, and competitive in the changing managed care marketplace.

To provide affiliates with low-cost medical supplies and contraceptives, we negotiated group-purchasing agreements.

Connecting callers to the nearest Planned Parenthood, we sponsored a nationwide, toll-free "smart" line, 1-800-230-PLAN. With all of our affiliates participating, an average of more than 14,000 callers used the line every month - an increase in use ofabout 10 percent over the previous year.

Providing a forum in which affiliates can share their most creative and successful strategies for improving customer satisfaction and outreach into the community, we published and distributed the bimonthly newsletter, *Marketing Exchange*.

[000027]

PROTECTING CHOICE
PROVIDING CHOICES
1996-97 Annual Report

[000028]

Broadened women's options for early surgical abortion by providing affiliates with training and information on the manual vacuum aspiration (MVA) technique. Many affiliates have begun to offer this method, which can be used up to 12 weeks from the last menstrual period.

Approved testing of Cyclo-Provera®, a promising new monthly injectable contraceptive method, at eight affiliate clinical testing sites across the country. Each site will screen and enroll up to 30 women to receive the once-monthly injection.

Took the lead to ensure that emergency contraception (EC) becomes recognized as a basic part of reproductive health care. Sometimes erroneously called the "morning-after pill" — and often regarded as the "best-kept secret" of family planning — EC uses ordinary oral contraceptives or an IUD to prevent pregnancy soon after unprotected intercourse. To educate practitioners and the public about this safe and effective method, the national office participated with the Program for Appropriate Technology in Health and other organizations in the production of 50,000 EC kits. The national office distributed the kits, which include a poster, brochure, and health care provider manual, to Planned Parenthood centers and other providers nationwide. Many Planned Parenthood affiliates are listed on the toll-free, 24-hour EC hotline, run by the Reproductive Health

Technologies Project. The national office currently is preparing a major EC marketing and service campaign for affiliates.

The Planned Parenthood national office establishes exacting nationwide medical standards for affiliates and offers information and technical support in all areas of reproductive and sexual health care service delivery. In 1996-97, the national office:

- Revised the *PFFA Manual of Meclical Standards and Guidelines* for numerous services, including: provision of emergency contraception; Pap test screening; the management of abnormal Pap tests; hormonal contraceptive use; IUDs; and HIV testing, counseling, and management. PPFA's scrupulous requirements are regarded as standards for the health care industry and used as models by other agencies.

- In response to the increased prevalence of managed care and new forms of health care financing, sponsored the second annual PPFA Health Care Institute in Keystone, CO, attended by 250 people. With the theme, "Improving Clinical Practices," the three-day institute offered staff from affiliates nationwide the opportunity to gain insights, learn new skills, and Improve the quality and effectiveness of Planned Parenthood services.

- Supported a nationwide, toll-free appointment line, 800-230-PLAN, which automatically connects callers to their nearest Planned Parenthood center. On average, 11,000 callers each month use the toll-free number to reach Planned Parenthood.

■ Monitored 226 affiliate medical research projects, of which 91 were initiated last year. Planned Parenthood affiliates participate in a variety of

Planned Parenthood Federation 1995 Annual Report

[000029]

Planned Parenthood®
Federation of America, Inc.

- Message from the Chairperson, Sharon W. Allison
- Message from the President Gloria A. Feldt
- Medical Services
- Sexuality Education
- International Services
- From Books to Bytes: Reaching Our Diverse Audience
- Public Policy
- Summary of Financial Activities
- Planned Parenthood Annual Awards
- Gifts in Support of PPFA
- PPFA Board & Executive Staff
- About PPFA

[000030]

FDA for early pregnancy termination, in 1995-96, PPFA urged that further clinical testing of methotrexate and misoprostol be conducted with the aim of securing FDA approval for abortifacient use.

- As part of Planned Parenthood's ongoing public education program goals, worked with Pfizer, Inc. to create public awareness around the sexually transmitted infection chlamydia and expanded a public education program around herpes, a project supported by Glaxo Wellcome that was launched in 1995. About four million American women and men become infected with chlamydia every year; genital herpes, a little-discussed disease, now infects one of every five U.S. adults — more than 30 million Americans.

- Published a bimonthly newsletter, The Planned Parenthood Women's Health Letter, that provides health information to women of every age. The newsletter often tackles topics that receive conflicting and inadequate coverage in the mainstream press, such as chronic fatigue syndrome, Prozac® and PMS, osteoarthritis, and ectopic pregnancies. The Women's Health Letter continues to reflect PPFA's traditional mission of empowering women by helping them make informed decisions about their health and their bodies.

Serving Affiliates

Planned Parenthood's national office establishes exacting medical standards and provides information and technical support in all areas of reproductive and sexual health care and their delivery.

In 1995-96, the national office:

- Revised the PPFA Manual of Medical Standards and Guidelines, which guides the provision of many affiliate clinical services. Planned Parenthood at ~ iliates' 900 health centers nationwide provide services that are based on scrupulous medical standards of care, many of which are regarded as standards for the health care industry and used as models by other agencies.

  Last year, as part of an ongoing process, PPFA's national medical division substantially revised or developed new standards for provision of emergency hormonal contraception, progestin-only contraceptive pills (POPs), Pap test screening, the management of abnormal Pap tests, the management of vulvar conditions, and family practice, among other services. In addition, all consent forms and fact sheets were updated in Spanish.

- Continued to support a nationwide, toll-free appointment line, 800-230-PLAN, which automatically connects callers to their nearest Planned Parenthood center. The routing system also allows affiliates that share media markets to pool their advertising resources by listing only one convenient telephone number. On average, more than 7,000 callers each month use the toll-free appointment line to reach Planned Parenthood.

- Designed and coordinated a third annual campaign, Healthy Moms Week, timed to coincide with Mother's Day 1996. PPFA's national office created kits for affiliates that included organizing materials, public service announcements, educational curricula, fact sheets on breast health and other women's health-related topics, sample op-eds and public resolutions, and outreach tips to

help affiliates emphasize the broad range of women's health care Planned Parenthood affiliates provide not only in connection with Mother's Day but throughout the year. Assisted by the national office, more than 100 affiliates participated in Healthy Moms Week with free and reduced-price services, public awareness

[000031]

PPFA
PLANNED PARENTHOOD® FEDERATION OF AMERICA, INC.
1992 ANNUAL REPORT

[000032]

MEDICAL SERVICES

For more than three-quarters of a century, Planned Parenthood has delivered low-cost, high-quality sexual and reproductive health ware to American women and men. In nearly 1,000 communities across the nation, people turn to Planned Parenthood because of our professional, confidential services; sensitive, caring personnel; and unswerving commitment to voluntary, informed decision making.

NATIONAL OFFICE ACTIVITIES
Serving the Field of Family Planning

Planned Parenthood's national office is a trusted resource for other agencies, health care professionals, the media, and ochers who seek accurate, up-to-date information about

reproductive health care, especially existing fertility control methods and new options under development.

In 1992, PPFA national office:

- Conducted special advocacy efforts to promote Depo-Provera®, an extremely effective three-month contraceptive injection and the newest birth control method available to American women. Depo-Provera was approved by the U.S. Food and Drug Administration (FDA) in 1992 and is now offered as a contraceptive option by more than two-thirds of Planned Parenthood affiliates. Planned Parenthood affiliates and the national office have also been leading providers and advocates for Norplant®, an effective five-year subdermal contraceptive implant for women, which was approved by the FDA in 1990.

- Provided ongoing professional education through the PPFA Nurse Practitioner Program In Philadelphia. In 1992, 37 professionals graduated from the program and 17 new trainees were enrolled. Additionally, the national office organized and cosponsored the 16th Annual Post-Graduate Seminar for Nurse Practitioners in Family Planning, attended by 455 professionals, and sponsored two courses in colposcopy for nurse practitioners. PPFA continues to support affiliate-based nurse practitioner education programs and the development of educational curricula for these programs.

Serving Affiliates

Planned Parenthood's sexual and reproductive health services are based on exacting, professional standards.

PPFA establishes and monitors medical standards and protocols to maintain affiliates' outstanding reputation for high-quality medical care. In further support of the work of affiliates, the national office provides information and technical support to enhance the delivery of medical services.

Last year, PPFA's national office:

- Updated the *PPFA Manual of Medical Standards and Guidelines* and assisted affiliates in the development of individual protocols for a variety of services. New standards for the provision of Depo-Provera were approved, and new Spanish-language versions of patient fact sheets and consent forms were developed.

- Developed a multi-year Service Marketing Campaign to more effectively enlist and retain clients at Planned Parenthood centers nationwide. In 1992, the national office conducted a nationwide survey focusing on reproductive health services and targeted to women of reproductive age. The survey results were used to develop a unified advertising campaign that can be adapted for use by all affiliates. Additionally, PPFA developed and tested a toll-free calling system to route consumer telephone calls from anywhere in the country directly to the nearest Planned Parenthood center." Implementation of this program as well as other aspects of the Service Marketing Campaign will begin in 1993.

- Increased awareness of Planned Parenthood career opportunities for health professionals through an ongoing national recruitment program that last year focused on diversity outreach. Ads in clinical and professional journals, conference exhibits, and direct-

mail campaigns generated nearly 1,700 referrals of clinicians, administrators, educators, and counselors to Planned Parenthood affiliates. The national office mailed bookmarks with the slogan, "Planned Parenthood: Much More Than You Think!" to 15,000 clinicians and nearly 200 African-American, Hispanic, Asian-American and Native American organizations.

- Monitored 130 ongoing affiliate research projects and evaluated and approved 51 new projects.

See Foldout Exhibits

[000033-000051]

1999 Return of Organization Exempt From Income Tax

1998 Return of Organization Exempt From Income Tax

1997 Return of Organization Exempt From Income Tax

Summary of 1991 Financial Activities

Planned Parenthood Federation of America
Summary of 1992 Financial Activities

Planned Parenthood Federation of America
Summary of Financial Activities for the 18 month
Ended June 30, 1994

Planned Parenthood Federation of America
Summary of Financial Activities for the Year
Ended June 30, 1995

Summary of Financial Activities
For the Year Ended June 30, 1997

Summary of Financial Activites
For the Year Ended June 30, 1998

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

Note: The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No. 1545-0047

1999

This Form is Open to Public Inspection

A For the 1999 calendar year, OR tax year period beginning 7/01 , 1999, and ending 6/30 , 2000

B Check if:
- ☐ Change of address
- ☐ Initial return
- ☐ Final return
- ☐ Amended return (required also for State reporting)

Please use IRS label or print or type. See Specific Instructions.

C
PLANNED PARENTHOOD/SAN DIEGO & RIVERSIDE
1075 CAMINO DEL RIO SOUTH #200
SAN DIEGO, CA 92108

D Employer identification number: 95-6111785

E Telephone number: (619) 683-7526

F Check ▶ ☐ if exemption application is pending

G Type of organization ▶ ☒ Exempt under section 501(c) (3) ◀ (insert number) OR ▶ ☐ section 4947(a)(1) nonexempt charitable trust

Note: Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).

H(a) Is this a group return filed for affiliates? ☐ Yes ☒ No

(b) If "Yes," enter the number of affiliates for which this return is filed: ▶

(c) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No

I If other box in H is checked "Yes," enter four-digit group exemption number (GEN) ▶

J Accounting method: ☐ Cash ☒ Accrual ☐ Other (specify) ▶

K Check here ▶ ☐ if the organization's gross receipts are normally not more than $25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

Note: Form 990-EZ may be used by organizations with gross receipts less than $100,000 and total assets less than $250,000 at end of year.

Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 15.)

1	Contributions, gifts, grants, and similar amounts received:			
a	Direct public support	1a	2,151,689	
b	Indirect public support	1b		
c	Government contributions (grants)	1c	8,090,204	
d	Total (add lines 1a through 1c) (attach schedule of contributors) (cash $ 10,241,893 noncash $)	1d		10,241,893
2	Program service revenue including government fees and contracts (from Part VII, line 93)	2		5,215,791
3	Membership dues and assessments	3		
4	Interest on savings and temporary cash investments	4		
5	Dividends and interest from securities	5		89,990
6a	Gross rents	6a	138,951	
b	Less: rental expenses	6b	93,945	
c	Net rental income or (loss) (subtract line 6b from line 6a)	6c		45,006
7	Other investment income (describe ▶ SEE STATEMENT 1)	7		93,945

		(A) Securities		(B) Other	
8a	Gross amount from sale of assets other than inventory	3,272,608	8a		
b	Less: cost or other basis and sales expenses	3,028,635	8b		
c	Gain or (loss) (attach schedule) STATEMENT 2	243,973	8c		
d	Net gain or (loss) (combine line 8c, columns (A) and (B))		8d		243,973
9	Special events and activities (attach schedule)				
a	Gross revenue (not including $ of contributions reported on line 1a)		9a		
b	Less: direct expenses other than fundraising expenses		9b		
c	Net income or (loss) from special events (subtract line 9b from line 9a)				9c
10a	Gross sales of inventory, less returns and allowances		10a		
b	Less: cost of goods sold		10b		
c	Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)				10c
11	Other revenue (from Part VII, line 103)				11
12	Total revenue (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)				12 15,930,598
13	Program services (from line 44, column (B))				13 13,865,499
14	Management and general (from line 44, column (C))				14 1,985,308
15	Fundraising (from line 44, column (D))				15 517,126
16	Payments to affiliates (attach schedule)				16
17	Total expenses (add lines 16 and 44, column (A))				17 16,367,933
18	Excess or (deficit) for the year (subtract line 17 from line 12)				18 -437,335
19	Net assets or fund balances at beginning of year (from line 73, column (A))				19 11,655,378
20	Other changes in net assets or fund balances (attach explanation)				20
21	Net assets or fund balances at end of year (combine lines 18, 19, and 20)				21 11,218,043

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STATEMENT 1
FORM 990, PART I, LINE 7
OTHER INVESTMENT INCOME

RENTAL EXPS DUPLICATED	$ 93,945
TOTAL	$ 93,945

STATEMENT 2
FORM 990, PART I, LINE 8
NET GAIN (LOSS) FROM NONINVENTORY SALES

PUBLICLY TRADED SECURITIES:

GROSS SALES PRICE:	3,272,608	
COST OR OTHER BASIS:	3,028,635	
GAIN (LOSS)		$ 243,973
TOTAL GAIN (LOSS)		$ 243,973

STATEMENT 3
FORM 990, PART II, LINE 43
OTHER EXPENSES

OTHER EXPENSES	(A) TOTAL	(B) PROGRAM SERVICES	(C) MANAGEMENT & GENERAL	(D) FUNDRAISING
ADVERTISING	$ 452,637	432,814	15,990	3,833
BAD DEBTS	651	651		
BOARD EXPENSES	14,926		14,926	
CONTINUING EDUCATION	3,719	3,719		
INSURANCE	320,906	282,509	38,397	
MEMBERSHIP DUES	12,507	4,521	7,986	
MEX-FAM (BINATIONAL)	75,376	75,376		
MISCELLANEOUS	183,997	113,457	23,291	47,249
NURSE PRACTITIONER TRAINING	13,143	13,143		
PAYMENTS TO AFFILIATES	232,719	108,668	124,051	
PROFESSIONAL FEES AND CONTRACT	1,687,166	1,331,873	228,655	126,638
SPECIAL EVENTS	135,636	8,648		126,988
TOTAL	$3,133,383	2,375,379	453,296	304,708

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

Note: The organization may have to use a copy of this return to satisfy state reporting requirements.

1998

This Form is Open to Public Inspection

A For the 1998 calendar year, OR tax year period beginning 7/01, 1998, and ending 6/30, 19 99

B Check if:
- ☐ Change of address
- ☐ Initial return
- ☐ Final return
- ☐ Amended return (required also for State reporting)

Please use IRS label or print or type. See Specific Instructions.

C
PLANNED PARENTHOOD/SAN DIEGO & RIVERSIDE
1075 CAMINO DEL RIO SOUTH #200
SAN DIEGO, CA 92108

D Employer identification number: 95-6111785

E Telephone number: (619) 683-7526

F Check ▶ ☐ if exemption application is pending

G Type of organization ▶ ☒ Exempt under section 501(c) (3) ◀ (insert number) OR ▶ ☐ section 4947(a)(1) nonexempt charitable trust

Note: Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).

H(a) Is this a group return filed for affiliates? ☐ Yes ☒ No

(b) If "Yes," enter the number of affiliates for which this return is filed: ▶

(c) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No

I If either box in H is checked "Yes," enter four-digit group exemption number (GEN) ▶

J Accounting method: ☐ Cash ☒ Accrual ☐ Other (specify) ▶

K Check here ▶ ☐ if the organization's gross receipts are normally not more than $25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

Note: Form 990-EZ may be used by organizations with gross receipts less than $100,000 and total assets less than $250,000 at end of year.

Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 13.)

1	Contributions, gifts, grants, and similar amounts received:			
a	Direct public support	1a	2,489,685	
b	Indirect public support	1b		
c	Government contributions (grants)	1c	7,436,849	
d	Total (add lines 1a through 1c) (attach schedule of contributors) (cash $ 9,926,534 noncash $) ..... SEE STATEMENT 1	1d		9,926,534
2	Program service revenue including government fees and contracts (from Part VII, line 93)	2		4,764,552
3	Membership dues and assessments	3		
4	Interest on savings and temporary cash investments	4		
5	Dividends and interest from securities	5		67,972
6a	Gross rents	6a	134,931	
b	Less: rental expenses	6b	83,682	
c	Net rental income or (loss) (subtract line 6b from line 6a)	6c		51,249
7	Other investment income (describe ▶ SEE STATEMENT 2)	7		83,682

		(A) Securities		(B) Other		
8a	Gross amount from sale of assets other than inventory	2,603,898	8a			
b	Less: cost or other basis and sales expenses	2,307,710	8b			
c	Gain or (loss) (attach schedule) STATEMENT 3	296,188	8c			
d	Net gain or (loss) (combine line 8c, columns (A) and (B))				8d	296,188
9	Special events and activities (attach schedule)					
a	Gross revenue (not including $ of contributions reported on line 1a)		9a			
b	Less: direct expenses other than fundraising expenses		9b			
c	Net income or (loss) from special events (subtract line 9b from line 9a)				9c	
10a	Gross sales of inventory, less returns and allowances		10a			
b	Less: cost of goods sold		10b			
c	Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)				10c	
11	Other revenue (see Part VII, line 103)				11	
12	Total revenue (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)				12	15,190,177
13	Program services (from line 44, column (B))				13	11,814,912
14	Management and general (from line 44, column (C))				14	1,778,674
15	Fundraising (from line 44, column (D))				15	448,554
16	Payments to affiliates (attach schedule)				16	
17	Total expenses (add lines 13 and 44, column (A))				17	14,042,140
18	Excess or (deficit) for the year (subtract line 17 from line 12)				18	1,148,037
19	Net assets or fund balances at beginning of year (from line 73, column (A))				19	10,507,341
20	Other changes in net assets or fund balances (attach explanation)				20	
21	Net assets or fund balances at end of year (combine lines 18, 19, and 20)				21	11,655,378

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EXPENSES

ASSETS

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K/A For Paperwork Reduction Act Notice, see page 1 of the separate instructions. Form 990 (1998)

CLIENT PPSDRC PLANNED PARENTHOOD/SAN DIEGO & RIVERSIDE 95-6111785

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STATEMENT 2
FORM 990, PART I, LINE 7
OTHER INVESTMENT INCOME

RENTAL EXPS DUPLICATED	$ 83,682
TOTAL	$ 83,682

STATEMENT 3
FORM 990, PART I, LINE 8
NET GAIN (LOSS) FROM NONINVENTORY SALES

PUBLICLY TRADED SECURITIES:

GROSS SALES PRICE:	2,603,898	
COST OR OTHER BASIS:	2,307,710	
GAIN (LOSS)		$ 296,188
TOTAL GAIN (LOSS)		$ 296,188

STATEMENT 4
FORM 990, PART II, LINE 43
OTHER EXPENSES

OTHER EXPENSES	(A) TOTAL	(B) PROGRAM SERVICES	(C) MANAGEMENT & GENERAL	(D) FUNDRAISING
ADVERTISING	$ 297,100	258,133	38,967	
BAD DEBTS	11,596	11,596		
BOARD EXPENSES	9,987		9,987	
CONTINUING EDUCATION	369	369		
INSURANCE	264,114	233,344	30,770	
MEMBERSHIP DUES	10,975	3,843	7,132	
MEX-FAM (BINATIONAL)	209,604	209,604		
MISCELLANEOUS	138,201	58,075	37,776	42,350
NURSE PRACTITIONER TRAINING	8,908	8,908		
PAYMENTS TO AFFILIATES	207,170	93,319	113,851	
PROFESSIONAL FEES & CONTRACTS	1,172,288	889,647	166,175	116,466
SPECIAL EVENTS	82,877	11,636		71,241
TOTAL	$2,413,189	1,778,474	404,658	230,057

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

Note: The organization may have to use a copy of this return to satisfy state reporting requirements.

1997

This Form is Open to Public Inspection

A For the 1997 calendar year, OR tax year period beginning 7/01, 1997, and ending 6/30, 19 98

B Check if:
- ☐ Change of address
- ☐ Initial return
- ☐ Final return
- ☐ Amended return (required also for State reporting)

Please use IRS label or print or type. See specific instructions.

C
PLANNED PARENTHOOD/SAN DIEGO & RIVERSIDE
1075 CAMINO DEL RIO SOUTH #200
SAN DIEGO, CA 92108

D Employer identification number: 95-6111785

E State registration number: CT-08130

F Check ▶ ☐ if exemption application is pending

G Type of organization ▶ ☒ Exempt under section 501(c) (3) ◀ (insert number) OR ▶ ☐ section 4947(a)(1) nonexempt charitable trust

Note: Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).

H(a) Is this a group return filed for affiliates? ☐ Yes ☒ No

(b) If "Yes," enter the number of affiliates for which this return is filed: ▶

(c) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No

I If either box in H is checked "Yes," enter four-digit group exemption number (GEN) ▶

J Accounting method: ☐ Cash ☒ Accrual ☐ Other (specify) ▶

K Check here ▶ ☐ if the organization's gross receipts are normally not more than $25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

Note: Form 990-EZ may be used by organizations with gross receipts less than $100,000 and total assets less than $250,000 at end of year.

Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 11.)

1	Contributions, gifts, grants, and similar amounts received:				
a	Direct public support	1a	2,084,533		
b	Indirect public support	1b			
c	Government contributions (grants)	1c	6,707,419		
d	Total (add lines 1a through 1c) (attach schedule of contributors (cash $ 8,791,952 noncash $) STATEMENT 1			1d	8,791,952
2	Program service revenue including government fees and contracts (from Part VII, line 93)			2	3,466,032
3	Membership dues and assessments			3	
4	Interest on savings and temporary cash investments			4	
5	Dividends and interest from securities			5	73,957
6a	Gross rents	6a	139,916		
b	Less: rental expenses	6b	92,424		
c	Net rental income or (loss) (subtract line 6b from line 6a)			6c	47,492
7	Other investment income (describe ▶ SEE STATEMENT 2)			7	92,424

		(A) Securities		(B) Other		
8a	Gross amount from sale of assets other than inventory	2,205,143	8a			
b	Less: cost or other basis and sales expenses	672,468	8b			
c	Gain or (loss) (attach schedule) SEE STMT 3	1,532,675	8c			
d	Net gain or (loss) (combine line 8c, columns (A) and (B))				8d	1,532,675
9	Special events and activities (attach schedule)					
a	Gross revenue (not including $ of contributions reported on line 1)		9a			
b	Less: direct expenses other than fundraising expenses		9b			
c	Net income or (loss) from special events (subtract line 9b from line 9a)				9c	
10a	Gross sales of inventory, less returns and allowances		10a			
b	Less: cost of goods sold		10b			
c	Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)				10c	
11	Other revenue (from Part VII, line 103)				11	
12	Total revenue (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)				12	14,004,532
13	Program services (from line 44, column (B))				13	10,213,111
14	Management and general (from line 44, column (C))				14	1,603,052
15	Fundraising (from line 44, column (D))				15	341,424
16	Payments to affiliates (attach schedule)				16	
17	Total expenses (add lines 16 and 44, column (A))				17	12,157,587
18	Excess or (deficit) for the year (subtract line 17 from line 12)				18	1,846,945
19	Net assets or fund balances at beginning of year (from line 73, column (A))				19	8,660,396
20	Other changes in net assets or fund balances (attach explanation)				20	
21	Net assets or fund balances at end of year (combine lines 18, 19, and 20)				21	10,507,341

RECEIVED MAR 02 1999 IRS OGDEN, UT

SCANNED MAR 05 1999

STATEMENT 2
FORM 990, PART I, LINE 7
OTHER INVESTMENT INCOME

RENTAL EXPENSE DUPLICATED	$ 92,424
TOTAL	$ 92,424

STATEMENT 3
FORM 990, PART I, LINE 8
NET GAIN (LOSS) FROM NONINVENTORY SALES

PUBLICLY TRADED SECURITIES:

GROSS SALES PRICE:	2,205,143
COST OR OTHER BASIS:	672,468
GAIN (LOSS):	$ 1,532,675
TOTAL GAIN (LOSS):	$ 1,532,675

STATEMENT 4
FORM 990, PART II, LINE 43
OTHER EXPENSES

OTHER EXPENSES	(A) TOTAL	(B) PROGRAM SERVICES	(C) MANAGEMENT & GENERAL	(D) FUNDRAISING
PROFESSIONAL FEES & CONTRACTS	$ 802,957	678,688	124,269	
ADVERTISING	305,573	136,193	169,380	
INSURANCE	241,167	216,312	24,855	
SPECIAL EVENTS	56,613	4,193	3,582	48,838
MISCELLANEOUS	109,874	54,674	18,605	36,595
BAD DEBTS	8,866	8,866		
NURSE PRACTITIONER TRAINING	18,103	18,103		
BOARD EXPENSE	19,975		19,975	
MEMBERSHIP DUES	9,401	2,620	6,781	
CONTINUING EDUCATION	3,463	3,463		
MEX-FAM (BINATIONAL)	228,867	228,867		
PAYMENTS TO AFFILIATES	198,970	83,408	115,562	
WOMANCARE COSTS	193,522	193,522		
TOTAL	$2,197,351	1,628,909	483,009	85,433

Summary of 1991 Financial Activities

All Amounts in Millions

Planned Parenthood Federation of America makes contributions to other organizations. A list of all organizations that received contributions from PPFA during calendar year 1991 may be obtained by writing to PPFA, 810 Seventh Avenue, New York, NY 10019.

Audited statement available upon request from New York Department of State, Office of Charities Registration, Albany, NY 12231, or from PPFA.

As a not-for-profit charitable organization, contributions to Planned Parenthood Federation of America are tax deductible. Contributions to Planned Parenthood Action Fund, an independent advocacy organization established by PPFA in 1989, are not tax deductible.

Notes

a. National office figures are derived directly from December 31, 1991 audited financial statements. Affiliate amounts reflect the operations of 170 Planned Parenthood affiliates and are projected based on amounts reported in affiliate audited financial statements.

b. Includes corporate contributions, foundation grants, and support from more than 550,000 active individual contributors, including individual contributions received through the International Service Agency and Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations).

c. The Alan Guttmacher Institute, to which PPFA supplies some support, is an independent, non-profit corporation for research, policy analysis, and public education on reproductive health issues. As a special affiliate of PPFA, its budget appears here in full.

d. The Planned Parenthood Action Fund is a separate corporation established in 1989. Its purpose is to advocate public policies that guarantee individual choice and full access to reproductive health care.

e. Includes 7.1 for transactions between national office and U.S. affiliates. Elimination of this amount in consolidation would reduce Federation revenue and expenses to 399.2 and 377.6 respectively. Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans of .2 for national and 10.6 for affiliates.

f. Includes distribution of contraceptive supplies valued at 4.2 in 1991 and 3.9 in 1990.

g. Includes the excess of shipments over receipts of commodities of 1.3.

h. Includes operating fund balances of 11.3 and non-operating fund balances of 2.9.

Operating and Other Funds

Combined Statement of Revenue, Expenses, and Changes in Fund Balances for the Year ended December 31, 1991

	1991		
Revenue	**Total 1991 (a)**	**Affiliates**	**National Office**
1. Clinic Income	140.9	140.9	0.0
2. Gov't. Grants and Contracts:			
a. In-kind Contributions of Contraceptives, Supplies, and Equipment	5.5	0.0	5.5
b. Other Reimbursements and Grants	118.5	116.8	1.7
3. Private Contributions and Bequests	113.7	84.4	29.3 (b)
4. Indirect Support from Affiliates	4.2	0.0	4.2
5. Other Operating Revenue	16.4	13.4	3.0
6. Alan Guttmacher Institute	4.2 (c)	4.2	0.0
7. Planned Parenthood Action Fund	2.9 (d)	2.9	0.0
Total Revenue	406.3 (e)	362.6	43.7
Expenses			
1. Domestic Programs:			
a. Patient Services	222.5	222.5	0.0
b. Community Services	9.3	9.3	0.0
c. Community Education	18.1	18.1	0.0
d. Research and Professional Training	16.1	16.1	0.0
e. Assistance to U.S. Family Planning	7.9	0.0	7.9
f. Services to Affiliates	10.3	0.0	10.3
Total Domestic Programs	284.2	266.0	18.2
2. Int'l Family Planning Programs	13.6 (f)	2.9	10.7
Total Program Services	297.8	268.9	28.9
3. Supporting Services:			
a. Management and General	51.3	46.0	5.3
b. Fund Raising	20.7	13.0	7.7
Total Supporting Services	72.0	59.0	13.0
4. Other Expenses			
a. Payments to Affiliated Organizations	7.2	5.7	1.5
b. Alan Guttmacher Institute	4.0 (c)	4.0	0.0
c. Planned Parenthood Action Fund	3.7 (d)	3.7	0.0
Total Expenses	384.7 (e)	341.3	43.4
Excess (Deficiency) of Revenue over Expenses	21.6	21.3	0.3 (g)
5. Other Changes in Fund Balance	2.9	2.9	0
Fund Balances: Beginning of Year	183.2	169.3	13.9
Fund Balances: End of Year	207.7	193.5	14.2 (h)

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BEST AVAILABLE COPY

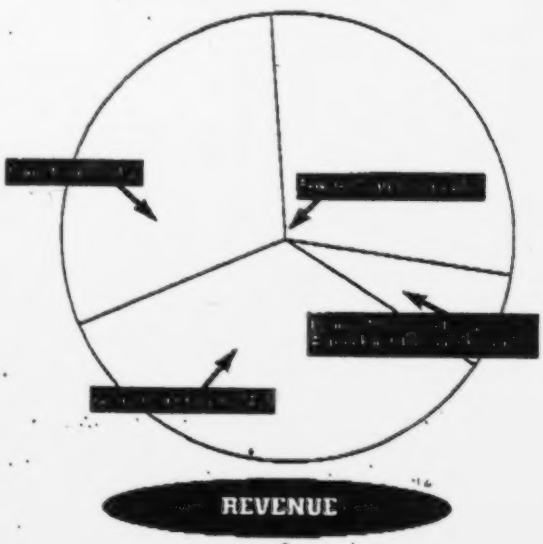
PLANNED PARENTHOOD FEDERATION OF AMERICA
SUMMARY OF 1992 FINANCIAL ACTIVITIES

[redacted] PPFA makes contributions to other organizations. A list of all organizations that received contributions from PPFA during calendar year 1992 may be obtained by writing to PPFA, 810 Seventh Avenue, New York, NY 10019.

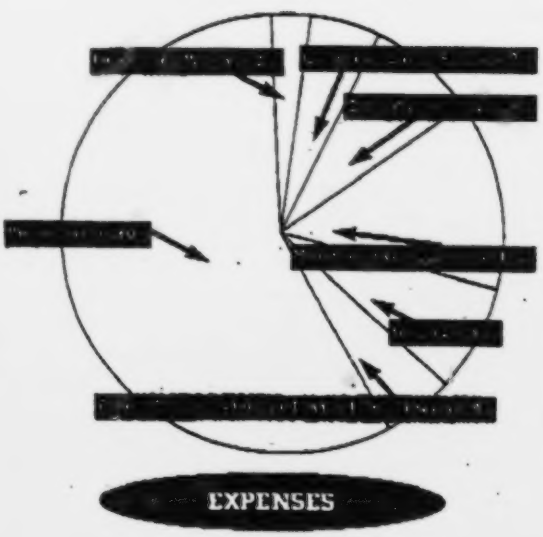
Audited statement available upon request from New York Department of State, Office of Charities Registration, Albany, NY 12231, or from PPFA.

Contributions to Planned Parenthood Federation of America, a not-for-profit charitable organization, are tax deductible. Contributions to Planned Parenthood Action Fund, an independent advocacy organization established by PPFA in 1989, are not tax deductible.

Combined National and Affiliate Operations



REVENUE



EXPENSES

Notes (*All Dollar Amounts in Millions*)

a. National office figures are derived directly from December 31, 1992, audited financial statements. Affiliate amounts reflect the operations of 168 Planned Parenthood affiliates and are projected based upon amounts reported in affiliate audited financial statements.

b. Includes corporate contributions, foundation grants, and support from more than 550,000 active individual contributors, including individual contributions received through International Service Agencies and Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations).

c. The Alan Guttmacher Institute, to which PPFA supplies some support, is an independent, not-for-profit corporation for research, policy analysis, and public education on reproductive health issues. As a special affiliate of PPFA, its budget appears here in full.

d. The Planned Parenthood Action Fund is a separate corporation established in 1989. Its purpose is to advocate public policies that guarantee individual choice and full access to reproductive health care.

e. Includes $7.6 for transactions between national office and U.S. affiliates. Elimination of this amount in consolidation would reduce Federation revenue and expenses to $438.4 and $414.9 respectively. Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans of $1.0 for national and $17.6 for affiliates.

f. Includes distribution of contraceptive supplies valued at $2.8.

g. Includes operating fund balances of $5.7 and nonoperating fund balances of $7.8.

Operating and Other Funds *All Amounts in Millions*

Combined Statement of Revenue, Expenses, and Changes in Fund Balances for the Year Ended December 31, 1992

	Total 1992		1992 Affiliates	National Office
Revenue				
1. Clinic Income	$150.9		$150.9	$0.0
2. Government Grants and Contracts:				
a. In-Kind Contributions of Contraceptives, Supplies, and Equipment	2.7		0.0	2.7
b. Other Reimbursements and Grants	142.3		141.2	1.1
3. Private Contributions and Bequests	121.2		91.4	29.8 (b)
4. Indirect Support from Affiliates	4.2		0.0	4.2
5. Other Operating Revenue	17.0		13.1	3.9
6. Alan Guttmacher Institute	4.5	(c)	4.5	0.0
7. Planned Parenthood Action Fund	3.2	(d)	3.2	0.0
TOTAL REVENUE	$446.0	(e)	$404.3	$41.7
Expenses				
1. Domestic and International Programs				
Domestic Programs				
a. Patient Services	253.2		253.2	0.0
b. Community Services	11.2		11.2	0.0
c. Community Education	20.0		20.0	0.0
d. Research and Professional Training	13.6		13.6	0.0
e. Assistance to U.S. Family Planning	7.6		0.0	7.6
f. Grants and Services to Affiliates	11.1		0.0	11.1
Total Domestic Programs	316.7		298.0	18.7
Total International Family Planning Programs	12.8	(f)	3.9	8.9
Total Program Services	329.5		301.9	27.6
2. Supporting Services				
a. Management and General	53.9		48.6	5.3
b. Fundraising	23.5		15.4	8.1
Total Supporting Services	77.4		64.0	13.4
3. Other Expenses				
a. Payments to Affiliated Organizations	8.0		6.6	1.4
b. Alan Guttmacher Institute Expenses	4.6	(c)	4.6	0.0
c. Planned Parenthood Action Fund	3.0	(d)	3.0	0.0
Total Other Expenses	15.6		14.2	1.4
TOTAL EXPENSES	$422.5	(e)	$380.1	$42.4
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	23.5		24.2	(0.7)
Other Changes in Fund Balance	(0.7)		(0.7)	0.0
FUND BALANCES: BEGINNING OF YEAR	$207.7		$193.5	$14.2
FUND BALANCES: END OF YEAR	$230.5		$217.0	$13.5 (g)

Fiscal Year Change
PPFA expects to change its fiscal reporting from the calendar year to the 12-month period ending June 30. Pending a final decision by the PPFA Board of Directors, the next audited statement will cover an 18-month transitional period from January 1, 1993, to June 30, 1994. The next PPFA annual report will reflect this change.

Combined Balance Sheet: National and Affiliates *All Amounts in Millions*

December 31, 1992 (with Comparative Totals for 1991)

	Total 1991	1992 Total 1992	Operating Funds Unrestricted Funds	Operating Funds Restricted Funds	Nonoperating Funds Property & Equipment	Nonoperating Funds Other Funds
ASSETS						
Current Assets	$184.6	$192.9	$131.8	$25.5	$ 6.3	$29.3
Property, Equipment, and Other	89.2	108.2	1.8	0.3	90.3	15.8
TOTAL ASSETS	273.8	301.1	133.6	25.8	96.6	45.1
LIABILITIES AND FUND BALANCES						
Current Liabilities	52.3	54.7	30.1	15.8	5.9	2.9
Mortgages and Notes Payable	13.8	15.9	0.7	0.0	14.5	0.7
TOTAL LIABILITIES	66.1	70.6	30.8	15.8	20.4	3.6
FUND BALANCES	207.7	230.5	102.8	10.0	76.2	41.5
TOTAL LIABILITIES & FUND BALANCES	$273.8	$301.1	$133.6	$25.8	$96.6	$45.1

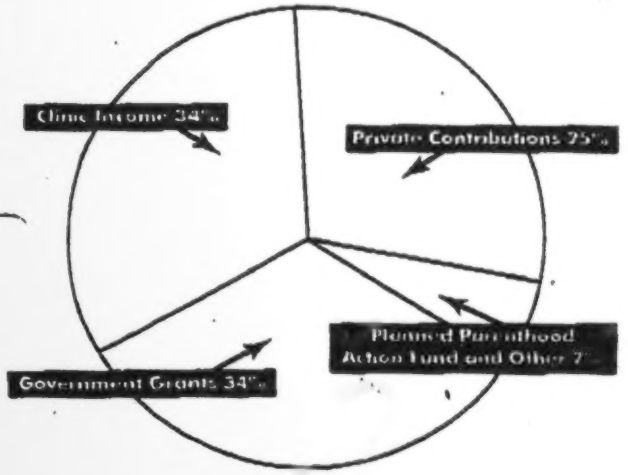
PLANNED PARENTHOOD FEDERATION OF AMERICA
SUMMARY OF FINANCIAL ACTIVITIES FOR THE 18 MONTHS ENDED JUNE 30, 1994

PPFA makes contributions to other organizations. A list of all organizations that received contributions from PPFA during calendar year 1993 and the six-month period ended June 30, 1994, may be obtained by writing to PPFA, 810 Seventh Avenue, New York, NY 10019.

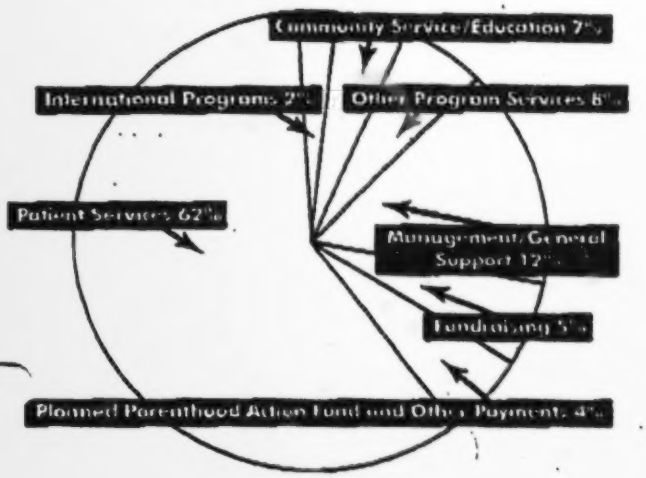
Audited statement available on request from New York Department of State, Office of Charities Registration, Albany, NY 12231, or from PPFA.

Contributions to Planned Parenthood Federation of America, a not-for-profit charitable organization, are tax deductible. Contributions to Planned Parenthood Action Fund, Inc., an independent advocacy organization established by PPFA in 1989, are not tax deductible.

COMBINED NATIONAL AND AFFILIATE OPERATIONS



REVENUE



EXPENSES

NOTES *(All Dollar Amounts in Millions)*

(a) National office and affiliate figures reflect operations for the 18-month period ended June 30, 1994. Affiliate amounts reflect the operations of 164 Planned Parenthood affiliates and are projected based upon amounts reported in affiliate audited financial statements.

(b) Includes corporate contributions, foundation grants, and support from over 400,000 active individual contributors, including individual contributions received through International Service Agency and Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations).

(c) The Alan Guttmacher Institute, to which PPFA supplies some support, is an independent, non-profit corporation for research, policy analysis, and public education on reproductive health issues. As a special affiliate of PPFA, its budget for the 18-month period appears here in full.

(d) The Planned Parenthood Action Fund is a separate corporation established in 1989. Its purpose is to advocate public policies that guarantee individual choice and full access to reproductive health care.

(e) Includes $8.5 for transactions between national office and U.S. affiliates. Elimination of this amount in consolidation would reduce Federation revenue and expenses to $685.2 and $657.2 respectively. Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans of $.9 for national and $27.4 for affiliates.

(f) Includes operating fund balances of $6.4 and non-operating fund balances of $11.7.

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Combined Statement of Revenue, Expenses, and Changes in Fund Balances

For the 18 Months Ended June 30, 1994

Revenue	Total[a]	Affiliates	National Office
1. Clinic Income	$235.6	$235.6	$ 0.0
2. Government Grants and Contracts:			
a. In-Kind Contributions of Contraceptives, Supplies, and Equipment	0.5	0.0	0.5
b. Other Reimbursements and Grants	237.7	236.1	1.6
3. Private Contributions and Bequests	174.0	137.4	36.6[b]
4. Indirect Support from Affiliates	6.5	0.0	6.5
5. Other Operating Revenue	31.7	20.2	11.5
6. Alan Guttmacher Institute	6.5[c]	6.5	0.0
7. Planned Parenthood Action Fund	1.2[d]	1.2	0.0
TOTAL REVENUE	$693.7[e]	$637.0	$56.7
Expenses			
1. Domestic Programs:			
a. Patient Services	$415.6	$415.6	$ 0.0
b. Community Services	14.1	14.1	0.0
c. Community Education	32.7	32.7	0.0
d. Research and Professional Training	23.4	23.4	0.0
e. Assistance to U.S. Family Planning	7.7	0.0	7.7
f. Services to Affiliates	23.1	0.0	23.1
Total Domestic Programs	516.6	485.8	30.8
2. International Family Planning Programs	15.9	6.8	9.1
Total Program Services	532.5	492.6	39.9
3. Supporting Services:			
a. Management and General	80.4	75.3	5.1
b. Fund Raising	32.3	25.0	7.3
Total Supporting Services	112.7	100.3	12.4
4. Other Expenses			
a. Payments to Affiliated Organizations	12.4	10.3	2.1
b. Alan Guttmacher Institute Expenses	7.3[c]	7.3	0.0
c. Planned Parenthood Fund Action Fund	0.8[d]	0.8	0.0
Total Other Expenses	20.5	18.4	2.1
TOTAL EXPENSES	$665.7[e]	$611.3	$54.4
EXCESS OF REVENUE OVER EXPENSES	28.0	25.7	2.3
5. Other Changes in Fund Balance	4.8	2.5	2.3
FUND BALANCES: BEGINNING OF YEAR	$230.5	$217.0	$13.5
FUND BALANCES: END OF YEAR	$263.3	$245.2	$18.1[f]

Fiscal Year Change

PPFA has changed its fiscal reporting from the calendar year to the 12-month period ending June 30. PPFA's current audited financial statements cover the 18-month transitional period from January 1, 1993, to June 30, 1994. Subsequent PPFA annual reports will cover the 12-month period from July 1 to June 30.

Combined Balance Sheet: National and Affiliates *All Amounts in Millions*

June 30, 1994

	Total	Operating Funds: Unrestricted Funds	Operating Funds: Restricted Funds	Non Operating Funds: Property & Equipment	Non Operating Funds: Endowment & Other Funds
ASSETS:					
Current Assets	$206.0	$141.0	$23.0	$ 3.5	$38.5
Property, Equipment, & Other	131.6	2.4	0.2	118.0	11.0
TOTAL ASSETS	337.6	143.4	23.2	121.5	49.5
LIABILITIES AND FUND BALANCES:					
Current Liabilities	54.1	33.2	14.4	4.7	1.8
Mortgages and Notes Payable	20.2	1.0	0.0	19.1	0.1
TOTAL LIABILITIES	74.3	34.2	14.4	23.8	1.9
FUND BALANCES	263.3	109.2	8.8	97.7	47.6
TOTAL LIABILITIES AND FUND BALANCES	$337.6	$143.4	$23.2	$121.5	$49.5

Planned Parenthood Federation of America
Summary of Financial Activities for the Year Ended June 30, 1995

PPFA makes contributions to other organizations. A list of all organizations that received contributions from PPFA during the year ended June 30, 1995, may be obtained by writing to PPFA, 810 Seventh Avenue, New York, NY 10019.

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Contributions to Planned Parenthood Federation of America, a not-for-profit charitable organization, are tax deductible. Contributions to Planned Parenthood Action Fund, Inc., an independent advocacy organization, are not tax deductible.

Notes (All Dollar Amounts in Millions)

(a)National office figures reflect operations for the year ended June 30, 1995. Affiliate figures reflect the operations of 163 Planned Parenthood affiliates and are based upon amounts reported in affiliate audited financial statements for fiscal years ended during 1994.

(b)Includes corporate contributions, foundation grants, and support from more than 400,000 active individual contributors, including individual contributions received through International Service Agency and Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations).

(c)The Alan Guttmacher Institute, a special affiliate to which PPFA supplies some support, is an independent, not-for-profit corporation for reproductive health research, policy analysis, and public education.

(d)The Planned Parenthood Action Fund is a separate corporation whose purpose is to advocate public policies that guarantee individual choice and full access to reproductive health care.

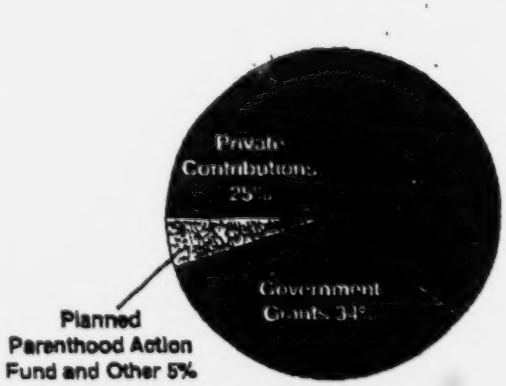
(e)Includes $11.6 for transactions between the national office and U.S. affiliates. Elimination of this amount in consolidation would reduce federation revenue and expenses to $466.7 and $460.4 respectively. Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans.

(f)Deficit is primarily the result of accrual in 1995 of a multi-year commitment to The Alan Guttmacher Institute, for fiscal years 1996-1998. Accrual is required under the provisions of the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 116. (See also note g.)

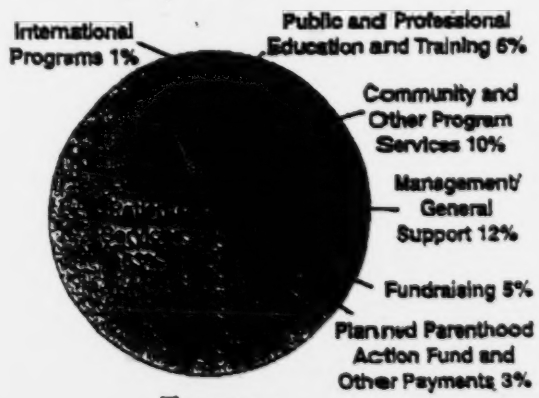
(g)Opening fund balances (net assets) have been restated to reflect adoption of the Financial Accounting Standards Board's Statements of Financial Accounting Standards Nos. 116 and 117, effective with the year ended June 30, 1995. The restatements primarily involve reclassification as net assets of amounts previously considered contributions designated for future periods (a liability).

(h)Includes operating fund balances of $7.7 and nonoperating fund balances of $10.9.

Combined National and Affiliate Operations



Revenue



Expenses

Combined Statement of Revenue, Expenses, and Changes in Fund Balances for the Year Ended June 30, 1995

	Total (a)	Affiliates	National Office
Revenue			
1. Clinic Income	$171.3	$171.3	$0.0
2. Government Grants and Contracts	163.1	162.2	0.9
3. Private Contributions and Bequests	117.8	91.7	26.1 (b)
4. Indirect Support from Affiliates	4.8	0.0	4.8
5. Other Operating Revenue	15.8	7.9	7.9
6. Alan Guttmacher Institute	5.0 (c)	5.0	0.0
7. Planned Parenthood Action Fund	0.5 (d)	0.5	0.0
TOTAL REVENUE	$478.3 (e)	$438.6	$39.7
Expenses			
1. Domestic Programs:			
a. Patient Services	$299.2	$299.2	$0.0
b. Community Services	10.1	10.1	0.0
c. Public and Professional Education & Training	27.6	27.6	0.0
d. Public Affairs	10.6	10.6	0.0
e. Assistance to U.S. Family Planning	4.8	0.0	4.8
f. Services to Affiliates	20.7	0.0	20.7
Total Domestic Programs	373.0	347.5	25.5
2. International Family Planning Programs	5.4	1.4	4.0
Total Program Services	378.4	348.9	29.5
3. Supporting Services:			
a. Management and General	56.6	52.6	4.0
b. Fundraising	23.3	17.5	5.8
Total Supporting Services	79.9	70.1	9.8
4. Other Expenses			
a. Payments to Affiliated Organizations	8.3	6.8	1.5
b. Alan Guttmacher Institute	4.8	4.8	0.0
c. Planned Parenthood Action Fund	0.6	0.6	0.0
Total Other Expenses	13.7	12.2	1.5
TOTAL EXPENSES	$472.0 (e)	$431.2	$40.8
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	6.3	7.4	(1.1)(f)
5. Other Changes in Fund Balance	0.2	0.2	0.0
FUND BALANCES: BEGINNING OF YEAR	$264.9	$245.2	$19.7 (g)
FUND BALANCES: END OF YEAR	$271.4	$252.8	$18.6 (h)

Combined Balance Sheet: National and Affiliates (All Amounts in Millions)

June 30, 1995

	Total	— Operating Funds — Unrestricted Funds	Restricted Funds	— Nonoperating Funds — Property & Equipment	Endowment & Other Funds
ASSETS:					
Current Assets	$214.2	$146.3	$28.2	$4.3	$35.4
Property, Equipment, & Other	139.2	2.4	0.0	127.0	9.8
TOTAL ASSETS	353.4	148.7	28.2	131.3	45.2
LIABILITIES AND FUND BALANCES:					
Current Liabilities	59.2	39.8	14.0	4.2	1.2
Mortgages and Notes Payable	22.8	1.2	0.0	21.3	0.3
TOTAL LIABILITIES	82.0	41.0	14.0	25.5	1.5
FUND BALANCES	271.4	107.7	14.2	105.8	43.7
TOTAL LIABILITIES & FUND BALANCES	$353.4	$148.7	$28.2	$131.3	$45.2

	Total (a)	Affiliates	Net Office Eliminations	(b)
REVENUE				
1. Clinic Income	180.5	180.5		0.0
2. Government Grants & Contracts	171.9	170.3		1.6
3. Private Contributions & Bequests	122.7 (c)	98.6	26.0	-1.9
4. Indirect Support from Affiliates	0.0	0.0	4.8	-4.8
5. Other Operating Revenue	21.8	18.4	8.9	-5.5
6. Alan Guttmacher Institute	6.2 (d)	6.4	0.0	-0.2
7. Planned Parenthood Action Fund	0.9 (e)	0.9	0.0	
TOTAL REVENUE	504.0	475.1	41.3	-12.4
EXPENSES				
1. Domestic Programs:				
a. Patient Services	316.7	317.5		-0.8
b. Community Services	8.9	8.9		
c. Public & Prof. Educ. & Trng.	26.3	26.3		
d. Public Affairs	10.1	10.1		
e. Assistance to U.S. Family Planning	5.9	0.0	5.9	
f. Services to Affiliates	12.3	0.0	17.5	-5.2
Total Domestic Programs	380.2	362.8	23.4	-6.0
2. International Family Planning Programs	5.3	1.4	3.9	
Total Program Services	385.5	364.2	27.3	-6.0
3. Supporting Services:				
a. Management and General	59.7	55.4	4.3	
b. Fundraising	24.2	18.4	5.8	
Total Supporting Services	83.9	73.8	10.1	0.0
4. Other Expenses:				
a. Payments to Related Organizations	2.7	7.3	1.8	-6.4
b. Alan Guttmacher Institute	4.8	4.8	0.0	
c. Planned Parenthood Action Fund	0.9	0.9	0.0	
Total Other Expenses	8.4	13.0	1.8	-6.4
TOTAL EXPENSES	477.8 (f)	451.0	39.2	-12.4

Notes

(a) National office figures reflect operations for the year ended June 30, 1996. Affiliate figures reflect the operations of 159 Planned Parenthood affiliates, Planned Parenthood Action Fund (PPAF), and The Alan Guttmacher Institute and are based upon amounts reported in audited financial statements for fiscal years ended during 1995 (year ended June 30, 1996, for PPAF).

(b) Payments and receipts between affiliates and the national office have been eliminated. These include dues, rebates, insurance payments, and payments to The Alan Guttmacher Institute. Related adjustments have been made to balance sheet accounts.

(c) Includes corporate contributions, foundation grants, and support from more than 500,000 active individual contributors and

(g) Net asset balances (fund balances) at the beginning of the year have been restated to reflect adoption of the Financial Accounting Standards Board's Statement of Financial Accounting Standards Nos. 116 and 117, effective with years ended during 1995 by most affiliates. The restatements primarily involve reclassification as net assets of amounts previously considered contributions designated for future periods (a liability).

Organizations List & Audited Statement

PPFA makes contributions to other organizations. A list of all organizations that received contributions from PPFA during the year ended June 30, 1996, may be obtained by writing to PPFA, 810 Seventh Avenue, New York, NY 10019. Audited statement available on request from New York Department of State, Office of Charities Registration, Albany, NY 12231, or from PPFA.

Combined Balance Sheet

charts, Revenue and Expenses

- return to Table of Contents, PPFA 1995-96 Annual Report
- return to Information Resources/About Planned Parenthood
- return to Planned Parenthood-national home page

SUMMARY OF FINANCIAL ACTIVITIES

for the Year Ended June 30, 1997

PPFA makes contributions to other organizations [redacted]
contributions from PPFA during the year ended [redacted]
PPFA, 810 Seventh Avenue, New York, NY 10019.

Audited statement available on request from New York [redacted]
Registration, Albany, NY 12231, or from PPFA.

Notes (All Dollar Amounts in Millions)

(a) National office figures reflect operations for the year ended June 30, 1997. Affiliate figures reflect the operations of 151 Planned Parenthood affiliates and are based upon amounts reported in affiliate audited financial statements for fiscal years ended during 1996.

(b) Payments and receipts between affiliates and the national office have been eliminated. These include dues, rebates, insurance payments, and payments to the Alan Guttmacher Institute. Related adjustments have been made to the balance sheet.

(c) Includes corporate contributions, foundation grants, and support from more than 500,000 active individual contributors, including individual contributions received through International Service Agency and Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations). This also includes $9.5 million of bequests.

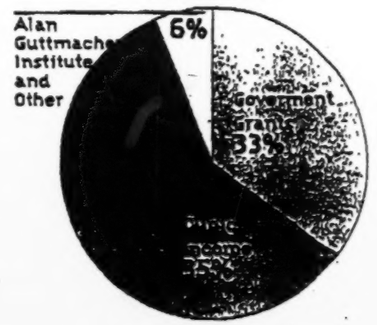
(d) The Alan Guttmacher Institute, a special affiliate to which PPFA supplies some support, is an independent, not-for-profit corporation for reproductive health research, policy analysis, and public education.

(e) Throughout the text of this Annual Report, these domestic programs of the national office have been described in the context of the affiliate programmatic areas (Medical Services, Sexuality Education, Public Policy) to which they relate.

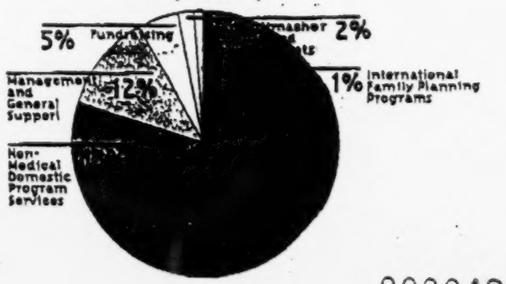
(f) Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans, but do include depreciation and amortization of such property, plant, and equipment and interest expense on such loans.

(g) Primarily involves the adoption of Financial Accounting Standards Board Statement No. 124, requiring the carrying of nearly all investments at market value instead of cost.

Revenue



Expenses



OPERATING AND OTHER FUNDS (ALL AMOUNTS IN MILLIONS)
COMBINED STATEMENT OF REVENUE, EXPENSES, AND CHANGES IN NET ASSETS
FOR THE YEAR ENDED JUNE 30, 1997

	Total(a)	Affiliates	National Office	Eliminations (b)
Revenue				
1. Clinic Income	184.3	184.3		
2. Government Grants and Contracts	177.5	175.8	1.7	
3. Private Contributions and Bequests	137.7 (c)	110.4	29.2	(1.9)
4. Indirect Support from Affiliates			4.9	(4.9)
5. Other Operating Revenue	25.7	19.3	11.6	(5.2)
6. Alan Guttmacher Institute	5.7 (d)	6.0		(0.3)
Total Revenue	530.9	495.8	47.4	(12.3)
Expenses				
1. Domestic Programs:				
a. Medical Services	332.6	337.8		(5.2)
b. Sexuality Education	27.2	27.2		
c. Public Policy	10.5	10.5		
d. Service to the Field of Family Planning (e)	8.4		8.4	
e. Service to Affiliates (e)	17.4		17.7	(0.3)
Total Domestic Programs	396.1	375.5	26.1	(5.5)
2. International Family Planning Programs	4.9	1.4	3.5	
Total Program Services	401.0	376.9	29.6	(5.5)
3. Supporting Services:				
a. Management and General	61.2	56.9	4.3	
b. Fundraising	25.2	18.9	6.3	
Total Supporting Services	86.4	75.8	10.6	0.0
4. Other Expenses:				
a. Payments to Related Organizations	2.3	7.2	1.9	(6.8)
b. Alan Guttmacher Institute	5.3	5.3		
Total Other Expenses	7.6	12.5	1.9	(6.8)
Total Expenses	495.0 (f)	465.2	42.1	(12.3)
EXCESS OF REVENUE OVER EXPENSES	35.9	30.6	5.3	0.0
5. Other Changes in Net Assets (g)	6.7	4.6	2.1	
NET ASSETS: Beginning of Year	317.6	297.6	20.0	
NET ASSETS: End of Year	360.2	332.8	27.4	0.0

COMBINED BALANCE SHEET: NATIONAL AND AFFILIATES (All Amounts in Millions) 6/30/97

	Total (a)	Affiliates	National Office	Eliminations (b)
ASSETS				
Current Assets	233.2	222.4	14.5	(3.7)
Property, Equipment, Endowment, Other	202.7	179.0	23.7	
TOTAL ASSETS	435.9	401.4	38.2	(3.7)
LIABILITIES AND NET ASSETS				
Current Liabilities	50.6	46.6	7.7	(3.7)
Mortgages, Notes Payable, Other	25.1	22.0	3.1	
TOTAL LIABILITIES	75.7	68.6	10.8	(3.7)
NET ASSETS				
Unrestricted	147.5	139.1	8.4	
Property & Equipment	134.5	133.0	1.5	
Temporarily Restricted	35.7	29.3	6.4	
Permanently Restricted	42.5	31.4	11.1	
TOTAL NET ASSETS	360.2	332.8	27.4	0.0
TOTAL LIABILITIES AND NET ASSETS	435.9	401.4	38.2	

Summary of Financial Activities

for the year ended June 30, 1998

A makes contributions to
r organizations. A list of all
nizations that received con-
tions from PPFA during the
ended June 30, 1998, may
btained by writing to PPFA,
Seventh Avenue, New York,
10019.
ited statement available on
est from New York Depart-
t of State, Office of Charities
stration, Albany, NY 12231,
om PPFA.

Notes (All Dollar Amounts in Millions)

(a) National office figures reflect operations of Planned Parenthood Federation of America, Inc., Planned Parenthood Action Fund, Inc. (including its Political Action Committee), and The Planned Parenthood Foundation for the year ended June 30, 1998, as reported in audited financial statements. Affiliate figures reflect the operations of 133 Planned Parenthood affiliates and are based upon amounts reported in affiliate audited financial statements for fiscal years ended during 1997.

(b) Payments and receipts between affiliates and the national office have been eliminated. These include dues, rebates, insurance payments, and payments to the Alan Guttmacher Institute. Related adjustments have been made to the balance sheet.

(c) Includes corporate contributions, foundation grants, and support from more than 700,000 active individual contributors, including individual contributions received through International Service Agencies and Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations). This also includes $9.1 million of bequests.

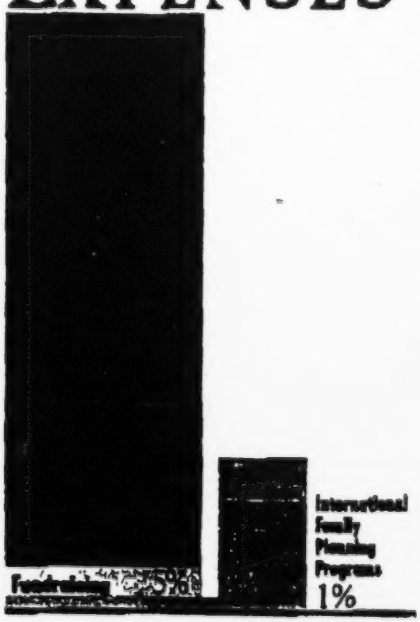
(d) The Alan Guttmacher Institute, a special affiliate to which PPFA supplies some support, is an independent, not-for-profit corporation for reproductive health research, policy analysis, and public education.

(e) Throughout the text of this Annual Report, these domestic programs of the national office have been described in the context of the affiliate programmatic areas (Medical Services, Sexuality Education, Public Policy) to which they relate.

(f) Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans, but do include depreciation and amortization of such property, plant, and equipment and interest expense on such loans.

EVENUE

EXPENSES



Operating and Other Funds (ALL AMOUNTS IN MILLIONS)

COMBINED STATEMENT OF REVENUE, EXPENSES, AND CHANGES IN NET ASSETS FOR THE YEAR ENDED JUNE 30, 1998

	Total(a)	Affiliates	National Office	Eliminations (b)
Revenue				
1. Clinic Income	206.5	206.5		
2. Government Grants and Contracts	165.0	164.4	0.6	
3. Private Contributions and Bequests	139.3 (c)	106.3	35.0	(2.0)
4. Indirect Support from Affiliates			4.8	(4.8)
5. Other Operating Revenue	38.7	31.2	13.5	(6.0)
[illegible]				
Expenses				
1. Domestic Programs:				
a. Medical Services	340.1	346.1		(6.0)
b. Sexuality Education	27.8	27.8		
c. Public Policy	11.8	11.8		
d. Service to the Field of Family Planning (e)	8.5		8.5	
e. Service to Affiliates (e)	20.2		22.5	(2.3)
[illegible]				
2. International Family Planning Programs	5.4	1.9	3.5	
[illegible]				
3. Supporting Services:				
a. Management and General	62.5	57.7	4.8	
b. Fundraising	27.8	21.0	6.8	
[illegible]				
Other Expenses:				
a. Payments to Related Organizations	2.1	6.9		(4.8)
b. Alan Guttmacher Institute	5.7	5.7		
[illegible]				
Total Expenses	511.9 (f)	478.9	46.1	(13.1)
[illegible]				
5. Other Changes in Net Assets	2.3	2.4	(0.1)	
[illegible]				
NET ASSETS- End of Year	484.8	369.7	35.1	0.0

Combined Balance Sheet: National and Affiliates (ALL AMOUNTS IN MILLIONS) 6/30/98

	Total(a)	National Affiliates	Office	Eliminations (b)
ASSETS				
Current Assets	264.5	245.3	22.9	(3.7)
Property, Equipment, Endowment, Other	221.2	193.3	27.9	
Total Assets	485.7	438.6	50.8	(3.7)
LIABILITIES AND NET ASSETS				
Current Liabilities	53.9	45.9	11.7	(3.7)
Mortgages, Notes Payable, Other	27.0	23.0	4.0	
Total Liabilities	80.9	68.9	15.7	(3.7)
NET ASSETS				
Unrestricted	170.8	160.7	10.1	
Property & Equipment	147.2	145.8	1.4	
Temporarily Restricted	40.9	29.3	11.6	
Permanently Restricted	45.9	33.9	12.0	
Total Net Assets	404.8	369.7	35.1	0.0
Total Liabilities and Net Assets	485.7	438.6	50.8	(3.7)

[000052]

Summary of Financial Activities
For the Year Ended June 30, 1999

(a) National office figures reflect operations of Planned Parenthood Federation of America, Inc., Planned Parenthood Action Fund, Inc. (including its Political Action Committee), end The Planned Parenthood Foundation for the year ended June 30,1999, as reported in audited financial statements. Affiliate figures reflect the operations of 132 Planned Parenthood affiliates and are based upon amounts reported in affiliate audited financial statements for fiscal years ended during 1998.

(b) Payments and receipts between affiliates and the national office have been eliminated. These include dues, rebates, insurance payments, and payments to the Alan Guttmacher Institute. Related adjustments have been made to the balance sheet.

(c) Includes, corporate contributions, foundation grants, and support from more than 700,000 active individual contributors, including individual contributions received through International Service Agencies said Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations). This also includes $76.2 million of bequests.

(d) The Alan Guttmacher Institute, a special affiliate to which PPFA supplies some support, is an independent, not-for-profit corporation for reproductive health research, policy analysis, and public education.

(e) Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans, but do include depreciation and amortization of such property, plant, and equipment and interest expense on such loans.

PPFA MAKES CONTRIBUTIONS TO OTHER ORGANIZATIONS. A LIST OF ALL ORGANIZATIONS THAT RECEIVED CONTRIBUTIONS FROM PPFA DURING THE YEAR ENDED JUNE 30, 1999, MAY BE OBTAINED BY WRITING TO PPFA, 810 SEVENTH AVENUE, NEW YORK, NY 10019.

AUDITED STATEMENT AVAILABLE ON REQUEST FROM NEW YORK DEPARTMENT OF STATE, OFFICE OF CHARITIES REGISTRATION, ALBANY, NY 12231, OR FROM PPFA.

REVENUE

Private Contributions	35%
Clinic Income	32%
Government Grants	27%
Alan Guttmacher Institute & Other	6%

EXPENSES

Medical Services	66%

Non-Medical Domestic Program Services	14%
Management and General Support	12%
Fundraising	6%
Alan Guttmacher Institute & Other	1%
International Family Planning Programs	1%

See Foldout Exhibit Changes in Net Assets [000053]

[000054]

GIFTS THAT SUPPORT PLANNED PARENTHOOD

Planned Parenthood Federation of America relies on the generosity of individuals, foundations, and corporations to support our domestic and international programs. There are many ways donors can help us pursue our mission on behalf of women and families around the corner and around the world.

OUTRIGHT GIFTS - When you become a member of Planned Parenthood Federation of America, you help fight for family planning and reproductive rights worldwide. Gifts can be made for unrestricted support of Planned Parenthood programs or for a specific purpose. (212-261-4359)

PLANNED GIFTS AND BEQUESTS - Learn how to secure reproductive freedom for future generations by naming PPFA in your will, or by receiving life income through Charitable

HANGES IN NET ASSETS, FOR THE YEAR ENDED JUNE 30, 1999

OTAL[A]	AFFILIATES	NATIONAL OFFICE	ELIMINATIONS [B]
211.0	211.0		
176.5	176.1	0.4	
232.7 [c]	186.0	48.8	(2.1)
		5.0	(5.0)
34.7	29.5	6.2	(1.0)
5.8 [d]	6.1		(0.3)
[illegible]	[illegible]	[illegible]	[illegible]
50.8	351.8		(1.0)
27.2	27.2		
20.3	20.3		
11.5		11.5	
13.8		16.2	(2.4)
23.6	399.3	27.7	(3.4)
5.4	1.6	3.8	
[illegible]	[illegible]	[illegible]	[illegible]
56.0	60.6	5.4	
30.9	22.5	8.4	
96.9	83.1	13.8	—
2.4	7.4		(5.0)
6.6	6.6		
9.0	14.0	—	(5.0)
[illegible]	[illegible]	[illegible]	[illegible]
5.8	110.7	15.1	—
5.7	5.8	(0.1)	
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]

COMBINED BALANCE SHEET: NATIONAL AND AFFILIATES

(ALL AMOUNTS IN MILLIONS) 6/30/99

	TOTAL[A]	AFFILIATES	NATIONAL OFFICE	ELIMINATIONS [B]
ASSETS				
CURRENT ASSETS	312.4	280.0	34.8	(2.4)
PROPERTY, EQUIPMENT, ENDOWMENT, OTHER	320.8	285.9	34.9	
TOTAL ASSETS	633.2	565.9	69.7	(2.4)
LIABILITIES & NET ASSETS				
CURRENT LIABILITIES	62.4	51.5	13.3	(2.4)
MORTGAGES, NOTES PAYABLE, OTHER	34.5	28.2	6.3	
TOTAL LIABILITIES	96.9	79.7	19.6	(2.4)
NET ASSETS				
UNRESTRICTED	200.0	185.0	14.3	
PROPERTY & EQUIPMENT	154.6	152.4	2.2	
TEMPORARILY RESTRICTED	64.4	43.7	20.7	
PERMANENTLY RESTRICTED	117.3	104.4	12.9	
TOTAL NET ASSETS	536.3	486.2	50.1	
TOTAL LIABILITIES & NET ASSETS	633.2	565.9	69.7	(2.4)

Remainder Trusts, Charitable Gift Annuities, or the Planned Parenthood Pooled Income Fund. (212-261-4345)

GIFTS ONLINE - It is now easier than ever to make a donation to Planned Parenthood Federation of America. Just log on to our Web site, www.plannedparenthood.org, and using our secure connection, make a tax-deductible gift using your credit card. It is a wonderful and convenient way to help us continue our work for women and families everywhere. (212-261-4359)

SUSTAINING MEMBERSHIP - Strengthen PPFA through monthly, bimonthly, or quarterly contributions. Gifts may be transferred directly from your bank account or credit card. (212-261-4682)

GIFTS OF STOCK - Receive a charitable deduction for the full market value of your gift at the date of transfer, as well as an exemption from capital gains tax, on shares you have owned for at least one year. (212-261-4692)

MEMORIAL OR HONORARY GIFTS - Celebrate special individuals or occasions with gifts in their honor. (212-261-4359)

DESIGNATED GIFTS AT THE WORKPLACE - Help sustain PPFA, the Planned Parenthood Foundation, and Family Planning International Assistance through Independent Charities of America, International Service Agencies, United Way, and other federated campaigns. (212) 261-4669)

MATCHING GIFTS - Your employer may double or even triple the value of your contribution. Your company's personnel office can supply appropriate information. (212-261-4682)

SUMMARY
For the year ended
June 30, 2000

A list of all organizations that received contributions from ppfa during the year ended June 30, 2000, may be obtained by writing to PPFA, 810 Seventh Avenue, New York, NY 10019.

Audited statement available on request from the Office of the Attorney General, Department of Law, Charities Bureau, Broadway, New York, NY 10271.

(a) National office figures reflect operations of Planned Parenthood Federation of America, Inc., Planned Parenthood Action Fund, Inc. (including its Political Action Committee), end The Planned Parenthood Foundation for the year ended June 30,2000. Affiliate figures reflect the operations of 127 Planned Parenthood affiliates and are based upon amounts reported in affiliate audited financial statements for fiscal years ended during 1999.

(b) Payments and receipts between affiliates and the national office have been eliminated. These include dues, rebates, insurance payments, and payments to the Alan Guttmacher Institute. Related adjustments have been made to the balance sheet.

(c) Includes, corporate contributions, foundation grants, and support from more than 700,000 active individual contributors, including individual contributions received through International Service Agencies said Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state

governments and participating corporations). This also includes $9 million of bequests.

(d) The Alan Guttmacher Institute, a special affiliate to which PPFA supplies some support, is an independent, not-for-profit corporation for reproductive health research, policy analysis, and public education.

(e) Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans, but do include depreciation and amortization of such property, plant, and equipment and interest expense on such loans.

See Foldout Exhibits [000055-000071]

Combined Statement of Revenue, Expense & Changes in Net Assets for the Year Ended June 30, 2000

Summary of Financial Activities For the Year ended June 30, 2001

1999 Return of Organization Exempt from Income Tax

OF FINANCIAL ACTIVITIES

Operating & Other Funds [All Amounts In Millions]

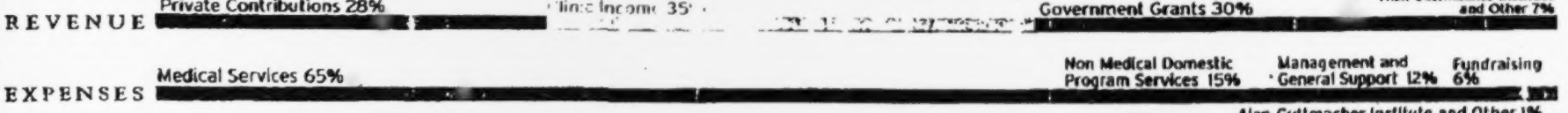
Combined Statement of Revenue, Expenses & Changes in Net Assets for the Year Ended June 30, 2000

	See Pages	Total[A]	Affiliates	National Office	Eliminations [B]
REVENUE					
Clinic Income		222.2	222.2		
Government Grants and Contracts		187.3	186.7	0.6	
Private Contributions And Bequests		174.9 [c]	126.0	51.2	(2.3)
Support From Affiliates		0.0		5.0	(5.0)
Other Operating Revenue		36.1	31.6	5.6	(1.0)
Alan Guttmacher Institute		6.7 [d]	7.2		(0.5)
TOTAL REVENUE		627.2	573.6	62.4	(8.8)
EXPENSES					
Domestic Programs:					
A. Medical Services	5,7-9,13	366.5	367.5		(1.0)
B. Sexuality Education	4-5	31.8	31.8		
C. Public Policy	2-3,5,7,10,12-13	20.9	20.9		
D. Services To The Field of Family Planning	2-5,7-8,10-17,20	15.8		15.8	
E. Service To Affiliates	3-5,7-8,10-17,20	14.5		17.3	(2.8)
Total Domestic Programs		449.5	420.2	33.1	(3.8)
International Family Planning Programs	6,7	5.6	1.5	4.1	
Total Program Services		455.1	421.7	37.2	(3.8)
Supporting Services					
A. Management And General		69.7	63.7	6.0	
B. Fundraising		33.7	24.2	9.5	
Total Supporting Services		103.4	87.9	15.5	0.0
Other Expenses					
A. Payments To Related Organizations		2.2	7.2		(5.0)
B. Alan Guttmacher Institute		7.0	7.0		
Total Other Expenses		9.2	14.2	0.0	(5.0)
TOTAL EXPENSES		567.7 [e]	523.8	52.7	(8.8)
Excess of Revenue Over Expenses		59.5	49.8	9.7	0.0
Other Changes In Net Assets		(0.3)		(0.3)	
NET ASSETS: Beginning Year		519.4	469.3	50.1	
NET ASSETS: End Year		578.6	519.1	59.5	0.0

Combined Balance Sheet: National And Affiliates

[All Amounts In Millions] 6/30/00

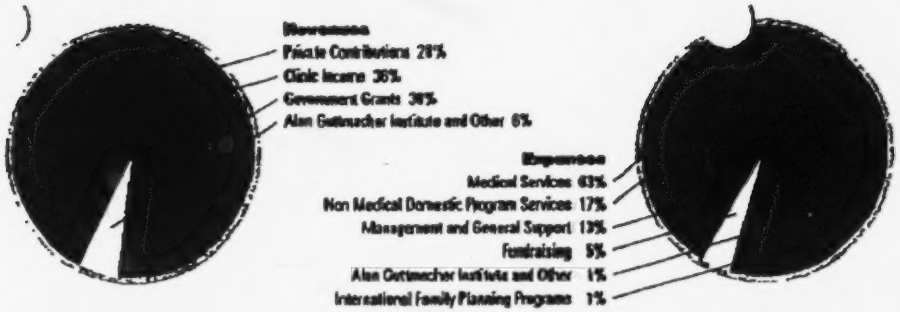
	Total[A]	Affiliates	National Office	Elimination [B]
ASSETS				
Current Assets	352.7	315.0	39.8	(2.1)
Property, Equipment, Endowment, Other	345.0	297.5	47.5	
TOTAL ASSETS	697.7	612.5	87.3	(2.1)
LIABILITIES & NET ASSETS				
Current Liabilities	60.9	49.5	13.5	(2.1)
Mortgages, Notes Payable, Other	43.2	28.9	14.3	
TOTAL LIABILITIES	104.1	78.4	27.8	(2.1)
NET ASSETS				
Unrestricted	228.5	212.6	15.9	
Property & Equipment	162.4	159.4	3.0	
Temporarily Restricted	80.0	53.8	26.2	
Permanently Restricted	122.7	108.3	14.4	
TOTAL NET ASSETS	593.6	534.1	59.5	0.0
TOTAL LIABILITIES & NET ASSETS	697.7	612.5	87.3	(2.1)



000055

Summary of Financial Activities

For the year ended June 30, 2001



Combined Statement of Revenue, Expenses & Changes in Net Assets for the Year Ended June 30, 2001
Operating and Other Funds (All Amounts in Millions)

	Total [A]	Affiliates	National Office	Eliminations [B]
Revenue				
Clinic Income	241.0	241.0	0.0	
Government Grants and Contracts	202.7	202.6	0.1	
Private Contributions and Bequests	189.5	118.1	73.7	(2.3)
Support From Affiliates	0.0 (c)	0.0	5.5	(5.5)
Other Operating Revenue	28.3	31.3	(1.3)	(1.7)
Alan Guttmacher Institute (12/31/00)	6.4 (d)	7.1		(0.7)
TOTAL REVENUE	**672.6**	**600.1**	**78.0**	**(10.2)**
Expenses				
Domestic Programs: SEE PAGES				
A. Medical Services 5,7-8,13	397.2	398.9		(1.7)
B. Sexuality Education 4-5	34.3	34.3		
C. Public Policy 2-3,7,10,11-13	24.5	24.5		
D. Services to the Field of Family Planning 2-5,7-8,10-17,20	27.6		27.6	
E. Service to Affiliates 2-5,7-8,10-17,20	19.0		19.0	(3.0)
Total Domestic Programs	**499.6**	**457.7**	**46.6**	**(4.7)**
International Family Planning Programs 6-7,11	8.2	0.0	8.2	
Total Program Services	**507.8**	**457.7**	**54.8**	**(4.7)**
Supporting Services				
A. Management and General	78.7	71.2	7.5	
B. Fundraising	33.9	23.8	10.1	
Total Supporting Services	**112.6**	**95.0**	**17.6**	
Other Expenses				
A. Payment to Related Organizations	2.0	7.5	0.0	(5.5)
B. Alan Guttmacher Institute	6.6	6.6	0.0	
Total Other Expenses	**8.6**	**14.1**	**0.0**	**(5.5)**
TOTAL EXPENSES	**629.0 (e)**	**566.8**	**72.4**	**(10.2)**
Excess of Revenue Over Expenses	**38.9**	**33.3**	**5.6**	**0.0**
Other Changes in Net Assets	**0.9**	**0.9**	**0.0**	**0.0**
NET ASSETS: Beginning Year	**600.0**	**543.4**	**56.6**	**0.0**
NET ASSETS: End Year	**639.8**	**577.6**	**62.2**	**0.0**

Combined Balance Sheet
National and Affiliates as of 06/30/2001
(All Amounts in Millions)

	Total [A]	Affiliates	National Office	Eliminations [B]
Assets				
Current Assets	400.0	357.1	44.6	(1.7)
Property, Equipment, Endowment, Other	350.3	303.2	47.1	
Total Assets:	**750.3**	**660.3**	**91.7**	**(1.7)**
Liabilities and Net Assets				
Current Liabilities	61.8	49.5	14.0	(1.7)
Mortgages, Notes Payable, Other	48.7	33.2	15.5	
Total Liabilities:	**110.5**	**82.7**	**29.5**	**(1.7)**
Net Assets				
Unrestricted	251.0	233.9	17.1	
Property & Equipment	176.8	173.9	2.9	
Temporary Restricted	84.8	58.4	26.4	
Permanently Restricted	127.2	111.4	15.8	
Total Net Assets	**639.8**	**577.6**	**62.2**	
Total Liabilities and Net Assets	**750.3**	**660.3**	**91.7**	**(1.7)**

A list of all organizations that received contributions from PPFA during the year that ended June 30, 2001, may be obtained by writing to PPFA, 810 Seventh Avenue, New York, NY 10019.

Audited statement available on request from the Office of the Attorney General, Department of Law, Charities Bureau, 120 Broadway, New York, NY 10271.

(a) National office figures reflect operations of Planned Parenthood Federation of America, Inc., Planned Parenthood Action Fund, Inc. (including its Political Action Committee), and The Planned Parenthood Foundation for the year ended June 30, 2001. Affiliate figures reflect the operations of 126 Planned Parenthood affiliates and are based upon amounts reported in affiliate audited financial statements for fiscal years ended during 2000.

(b) Payments and receipts between affiliates and the national office have been eliminated. These include dues, rebates, insurance payments, and payments to the Alan Guttmacher Institute. Related adjustments have been made to the balance sheet.

(c) Includes corporate contributions, foundation grants, and support from more than 700,000 active individual contributors, including individual contributions received through International Service Agencies and Federal Service Campaigns (on-the-job solicitation and contributions through payroll deduction plans for employees of federal and state governments and participating corporations). This also includes $21.3 million of bequests.

(d) The Alan Guttmacher Institute, a special affiliate to which PPFA supplies some support, is an independent, not-for-profit corporation for reproductive health research, policy analysis, and public education.

(e) Expenses do not include capitalized expenditures for property, plant, and equipment and repayment of related loans, but do include depreciation and amortization of such property, plant, and equipment and interest expense on such loans.

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

Note: *The organization may have to use a copy of this return to satisfy state reporting requirements.*

OMB No. 1545-0047

1999

This Form is Open to Public Inspection

A For the 1999 calendar year, OR tax year period beginning JULY 1, 1999, and ending JUNE 30, 2000

B Check if:
- ☐ Change of address
- ☐ Initial return
- ☐ Final return
- ☐ Amended return (required also for state reporting)

Please use IRS label or print or type. See Specific Instructions.

C Name of organization: PLANNED PARENTHOOD FEDERATION of AMERICA INC.

Number and street (or P.O. box if mail is not delivered to street address): 810 SEVENTH AVENUE — Room/suite:

City or town, state or country, and ZIP+4: NEW YORK, NEW YORK 10019

D Employer identification number: 13 1644147

E Telephone number: (212) 541-7800

F Check ▶ ☐ If exemption application is pending

G Type of organization— ▶ ☒ Exempt under section 501(c)(3) ◀ (insert number) OR ▶ ☐ section 4947(a)(1) nonexempt charitable trust

Note: *Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).*

H(a) Is this a group return filed for affiliates? ☐ Yes ☒ No

(b) If "Yes," enter the number of affiliates for which this return is filed: ▶

(c) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No

I If either box in H is checked "Yes," enter four-digit group exemption number (GEN) ▶

J Accounting method: ☐ Cash ☒ Accrual ☐ Other (specify) ▶

K Check here ▶ ☐ If the organization's gross receipts are normally not more than $25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

Note: *Form 990-EZ may be used by organizations with gross receipts less than $100,000 and total assets less than $250,000 at end of year.*

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 15.)

Revenue	1	Contributions, gifts, grants, and similar amounts received:		
	a	Direct public support	1a 40,12,927	
	b	Indirect public support	1b 5,530,733	
	c	Government contributions (grants)	1c 276,805	
	d	Total (add lines 1a through 1c) (attach schedule of contributors) (cash $ 46820465 noncash $ 0) SCHEDULE - A	1d	46,820,465
	2	Program service revenue including government fees and contracts (from Part VII, line 93)	2	3682395
	3	Membership dues and assessments	3	
	4	Interest on savings and temporary cash investments	4	
	5	Dividends and interest from securities	5	1269745
	6a	Gross rents	6a	
	b	Less: rental expenses	6b	
	c	Net rental income or (loss) (subtract line 6b from line 6a)	6c	
	7	Other investment income (describe ▶)	7	
	8a	Gross amount from sales of assets other than inventory — (A) Securities 18213606; (B) Other	8a	
	b	Less: cost or other basis and sales expenses	8b 17031635	
	c	Gain or (loss) (attach schedule)	8c 1181971	
	d	Net gain or (loss) (combine line 8c, columns (A) and (B)) SCHEDULE - B	8d	1,181,971
	9	Special events and activities (attach schedule)		
	a	Gross revenue (not including $ _____ of contributions reported on line 1a)	9a	
	b	Less: direct expenses other than fundraising expenses	9b	
	c	Net income or (loss) from special events (subtract line 9b from line 9a)	9c	
	10a	Gross sales of inventory, less returns and allowances	10a	
	b	Less: cost of goods sold	10b	
	c	Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)	10c	
	11	Other revenue (from Part VII, line 103) LIST ROYALTY INCOME	11	92625
	12	Total revenue (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)	12	53 046 201
Expenses	13	Program services (from line 44, column (B))	13	38 273 513
	14	Management and general (from line 44, column (C))	14	5,660,647
	15	Fundraising (from line 44, column (D))	15	6520373
	16	Payments to affiliates (attach schedule)	16	
	17	Total expenses (add lines 16 and 44, column (A))	17	50,454,533
Net Assets	18	Excess or (deficit) for the year (subtract line 17 from line 12)	18	2,591,668
	19	Net assets or fund balances at beginning of year (from line 73, column (A))	19	50 004 813
	20	Other changes in net assets or fund balances (attach explanation) SCHEDULE - D	20	3,078,868
	21	Net assets or fund balances at end of year (combine lines 18, 19, and 20)	21	55 675 349

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Part II Statement of Functional Expenses All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See Specific Instructions on page 19.)

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.		(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22 Grants and allocations (attach schedule) (cash $ SCHEDULE-O noncash $ -0-)	22				
23 Specific assistance to individuals (attach schedule)	23				
24 Benefits paid to or for members (attach schedule)	24				
25 Compensation of officers, directors, etc.	25				
26 Other salaries and wages	26				
27 Pension plan contributions	27				
28 Other employee benefits	28				
29 Payroll taxes	29				
30 Professional fundraising fees	30				
31 Accounting fees	31				
32 Legal fees	32				
33 Supplies	33				
34 Telephone	34				
35 Postage and shipping	35	SEE ATTACHED SCHEDULE-E			
36 Occupancy	36				
37 Equipment rental and maintenance	37				
38 Printing and publications	38				
39 Travel	39				
40 Conferences, conventions, and meetings	40				
41 Interest	41				
42 Depreciation, depletion, etc. (attach schedule)	42				
43 Other expenses (itemize): a SCHEDULE-N	43a				
b	43b				
c	43c				
d	43d				
e	43e				
44 Total functional expenses (add lines 22 through 43). Organizations completing columns (B)-(D), carry these totals to lines 13–15.	44	50,459,533	38,273,513	5,660,647	6,520,373

Reporting of Joint Costs. Did you report in column (B) (Program services) any joint costs from a combined educational campaign and fundraising solicitation? ▶ ☒ Yes ☐ No

If "Yes," enter (i) the aggregate amount of these joint costs $ 9534994; (ii) the amount allocated to Program services $ 4495100; (iii) the amount allocated to Management and general $ -0-; and (iv) the amount allocated to Fundraising $ 5039844

Part III Statement of Program Service Accomplishments (See Specific Instructions on page 22.)

What is the organization's primary exempt purpose? ▶ SEE ARTICLE II IN ATTACHED SCHEDULE (ISC-LAW)

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

		Program Service Expenses (Required for 501(c)(3) and (4) orgs., and 4947(a)(1) trusts; but optional for others.)
a	GRANTS & SERVICE TO AFFILIATES - USA IN THE FIELD OF FAMILY PLANNING (Grants and allocations $ 3462,268)	17172,370
b	SERVICE TO THE (NON AFFILIATES - USA) FIELD OF FAMILY PLANNING (Grants and allocations $ 972,335)	16969099
c	INTERNATIONAL ASSISTANCE AND FAMILY PLANNING (Grants and allocations $ 1692,095)	4132044
d	(Grants and allocations $)	
e Other program services (attach schedule)	(Grants and allocations $)	
f Total of Program Service Expenses (should equal line 44, column (B), Program services) ▶		38273513

Part IV **Balance Sheets** (See Specific Instructions on page 22.)

	Note: Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.			(A) Beginning of year		(B) End of year
Assets	45 Cash—non-interest-bearing			473651	45	353129
	46 Savings and temporary cash investments			412,316	46	533203
	47a Accounts receivable	47a	4022285			
	b Less: allowance for doubtful accounts	47b	0	3073225	47c	4022285
	48a Pledges receivable	48a				
	b Less: allowance for doubtful accounts	48b		7864496	48c	6759470
	49 Grants receivable			318194	49	0
	50 Receivables from officers, directors, trustees, and key employees (attach schedule)				50	
	51a Other notes and loans receivable (attach schedule)	51a				
	b Less: allowance for doubtful accounts	51b		0	51c	0
	52 Inventories for sale or use			4835234	52	2928788
	53 Prepaid expenses and deferred charges				53	
	54 Investments—securities (attach schedule) SCHEDULE - C			46580150	54	53666815
	55a Investments—land, buildings, and equipment: basis	55a				
	b Less: accumulated depreciation (attach schedule)	55b			55c	
	56 Investments—other (attach schedule)				56	
	57a Land, buildings, and equipment: basis	57a	14863082			
	b Less: accumulated depreciation (attach schedule) SCHEDULE - F	57b	4788968	9203435	57c	9893114
	58 Other assets (describe ▶ BENEFICIAL INTEREST IN PERPETUAL TRUST)			3592839	58	4026644
	59 **Total assets** (add lines 45 through 58) (must equal line 74)			69353540	59	82182978
Liabilities	60 Accounts payable and accrued expenses			10011966	60	8853682
	61 Grants payable				61	
	62 Deferred revenue			592992	62	666992
	63 Loans from officers, directors, trustees, and key employees (attach schedule)				63	
	64a Tax-exempt bond liabilities (attach schedule)				64a	
	b Mortgages and other notes payable (attach schedule)				64b	
	65 Other liabilities (describe ▶ SCHEDULE - H)			8743769	65	16986955
	66 **Total liabilities** (add lines 60 through 65)			19348727	66	26507629
Net Assets or Fund Balances	**Organizations that follow SFAS 117, check here** ▶ ☒ and complete lines 67 through 69 and lines 73 and 74.					
	67 Unrestricted			16399577	67	18190831
	68 Temporarily restricted			20752302	68	23038213
	69 Permanently restricted			12852934	69	14446305
	Organizations that do not follow SFAS 117, check here ▶ ☐ and complete lines 70 through 74.					
	70 Capital stock, trust principal, or current funds				70	
	71 Paid-in or capital surplus, or land, building, and equipment fund				71	
	72 Retained earnings, endowment, accumulated income, or other funds				72	
	73 **Total net assets or fund balances** (add lines 67 through 69 OR lines 70 through 72; column (A) must equal line 19 and column (B) must equal line 21)			50004813	73	55675349
	74 **Total liabilities and net assets / fund balances** (add lines 66 and 73)			69353540	74	82182978

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

Part IV A Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See Specific Instructions, page 24.)

a Total revenue, gains, and other support per audited financial statements . . ▶	a	55985,855
b Amounts included on line a but not on line 12, Form 990:		
(1) Net unrealized gains on investments . . $ 2597,193		
(2) Donated services and use of facilities $		
(3) Recoveries of prior year grants . . . $		
(4) Other (specify): SCHEDULE-I ..... $ 481,675		
Add amounts on lines (1) through (4) ▶	b	3078,868
c Line a minus line b . . . . . ▶	c	52,916,484
d Amounts included on line 12, Form 990 but not on line a:		
(1) Investment expenses not included on line 6b, Form 990 . . . $		
(2) Other (specify): REVENUE FROM Retirement Counsels $ 129,717		
Add amounts on lines (1) and (2) ▶	d	129,717
e Total revenue per line 12, Form 990 (line c plus line d) . . . . . ▶	e	53046,201

Part IV B Reconciliation of Expenses per Audited Financial Statements with Expenses per Return

a Total expenses and losses per audited financial statements . . ▶	a	50954,128
b Amounts included on line a but not on line 17, Form 990:		
(1) Donated services and use of facilities $		
(2) Prior year adjustments reported on line 20, Form 990 . . . . $		
(3) Losses reported on line 20, Form 990 . $		
(4) Other (specify): .... $		
Add amounts on lines (1) through (4) ▶	b	0
c Line a minus line b . . . . . ▶	c	50954,128
d Amounts included on line 17, Form 990 but not on line a:		
(1) Investment expenses not included on line 6b, Form 990. . . $		
(2) Other (specify): EXPENSES FOR Retirement Counsels $ 100,405		
Add amounts on lines (1) and (2) ▶	d	100,405
e Total expenses per line 17, Form 990 (line c plus line d) . . . . . ▶	e	51054,533

Part V List of Officers, Directors, Trustees, and Key Employees (List each one even if not compensated; see Specific Instructions on page 24.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (If not paid, enter -0-.)	(D) Contributions to employee benefit plans & deferred compensation	(E) Expense account and other allowances
SEE ATTACHED SCHEDULE-I				

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than $100,000 from your organization and all related organizations, of which more than $10,000 was provided by the related organizations? ▶ ☐ Yes ☒ No

If "Yes," attach schedule—see Specific Instructions on page 25.

Part VI Other Information (See Specific Instructions on page 25.)

			Yes	No
76	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity	76		X
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes. SEE ATTACHED BY LAWS SCHEDULE-A	77	X	
78a	Did the organization have unrelated business gross income of $1,000 or more during the year covered by this return?	78a		X
b	If "Yes," has it filed a tax return on Form 990-T for this year?	78b		N/A
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement	79		X
80a	Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?	80a	X	
b	If "Yes," enter the name of the organization ▶ SCHEDULE-K and check whether it is ☒ exempt OR ☐ nonexempt.			
81a	Enter the amount of political expenditures, direct or indirect, as described in the instructions for line 81. 81a: 0			
b	Did the organization file Form 1120-POL for this year?	81b		X
82a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?	82a		X
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions for reporting in Part III.). 82b: 0			
83a	Did the organization comply with the public inspection requirements for returns and exemption applications?	83a	X	
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	83b	X	
84a	Did the organization solicit any contributions or gifts that were not tax deductible?	84a		X
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	84b		N/A
85	*501(c)(4), (5), or (6) organizations.* a Were substantially all dues nondeductible by members?	85a		N/A
b	Did the organization make only in-house lobbying expenditures of $2,000 or less?	85b		N/A
	If "Yes" was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.			
c	Dues, assessments, and similar amounts from members 85c: N/A			
d	Section 162(e) lobbying and political expenditures 85d: N/A			
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices 85e: N/A			
f	Taxable amount of lobbying and political expenditures (line 85d less 85e) 85f: N/A			
g	Does the organization elect to pay the section 6033(e) tax on the amount in 85f?	85g		N/A
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount in 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?	85h		N/A
86	*501(c)(7) orgs.* Enter: a Initiation fees and capital contributions included on line 12 86a: N/A			
b	Gross receipts, included on line 12, for public use of club facilities 86b: N/A			
87	*501(c)(12) orgs.* Enter: a Gross income from members or shareholders 87a: N/A			
b	Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.) 87b: N/A			
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX	88		N/A
89a	*501(c)(3) organizations.* Enter: Amount of tax imposed on the organization during the year under: section 4911 ▶ N/A 0 ; section 4912 ▶ N/A 0 ; section 4955 ▶ N/A 0			
b	*501(c)(3) and 501(c)(4) orgs.* Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction.	89b		N/A
c	Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958. ▶ 0			
d	Enter: Amount of tax on line 89c, above, reimbursed by the organization. ▶ 0			
90a	List the states with which a copy of this return is filed ▶ SCHEDULE-L			
b	Number of employees employed in the pay period that includes March 12, 1999 (See inst.) 90b: 219			
91	The books are in care of ▶ PLANNED PARENTHOOD FEDERATION Telephone no. ▶ (212) 541-7800 Located at ▶ 810 SEVENTH AVENUE OF AMERICA, INC. ZIP + 4 ▶ 10019			
92	*Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041*—Check here ▶ ☐ and enter the amount of tax-exempt interest received or accrued during the tax year ▶ 92: N/A			

Form 990 (1999)

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Part VII Analysis of Income-Producing Activities (See Specific Instructions on page 29.)

Enter gross amounts unless otherwise indicated.	Unrelated business income (A) Business code	Unrelated business income (B) Amount	Excluded by section 512, 513, or 514 (C) Exclusion code	Excluded by section 512, 513, or 514 (D) Amount	(E) Related or exempt function income
93 Program service revenue:					
a SALES OF PUBLICATIONS					619891
b FEES FOR SERVICES TO AFFILIATES					3060220
c					
d					
e					
f Medicare/Medicaid payments					
g Fees and contracts from government agencies					
94 Membership dues and assessments					
95 Interest on savings and temporary cash investments			14	1263785	
96 Dividends and interest from securities					
97 Net rental income or (loss) from real estate:					
a debt-financed property					
b not debt-financed property					
98 Net rental income or (loss) from personal property					
99 Other investment income			18	1181971	
100 Gain or (loss) from sales of assets other than inventory					
101 Net income or (loss) from special events			15	97625	
102 Gross profit or (loss) from sales of inventory					
103 Other revenue: a LIST RENTAL INCOME SCHEDULE - P					
b					
c					
d					
e				2542341	3680111
104 Subtotal (add columns (B), (D), and (E)) ▶					6223452
105 Total (add line 104, columns (B), (D), and (E))					

Note: *Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I.*

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See Specific Instructions on page 30.)

Line No. ▼	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes).
93A	SALES & DISTRIBUTION OF EDUCATIONAL PUBLICATIONS IN THE FIELD OF FAMILY PLANNING
93B	FEES FOR PROVIDING CONFERENCE TRAINING SESSIONS AND OTHER EDUCATIONAL AND TECHNICAL ASSISTANCE TO PLANNED PARENTHOOD AFFILIATES.

Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities (See Specific Instructions on page 30.)

(A) Name, address, and EIN of corporation, partnership, or disregarded entity	(B) Percentage of ownership interest	(C) Nature of activities	(D) Total income	(E) End-of-year assets
	%			
	%	N/A		
	%			
	%			

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Please Sign Here

13/20/01 ▶ LARRY MORELAND, C.F.O.
Date | Type or print name and title.

Paid Preparer's Use Only

Date | Check if self- | Preparer's SSN or PTIN

[redacted]

SCHEDULE A (Form 990)

Department of the Treasury Internal Revenue Service

Organization Exempt Under Section 501(c)(3)

(Except Private Foundation) and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) Nonexempt Charitable Trust

Supplementary Information—(See separate instructions.)

▶ MUST be completed by the above organizations and attached to their Form 990 or 990-EZ.

OMB No. 1545-0047

1999

Name of the organization: PLANNED PARENTHOOD FEDERATION OF AMERICA INC

Employer identification number: 13 1644147

Part I Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees (See page 1 of the instructions. List each one. If there are none, enter "None.")

(a) Name and address of each employee paid more than $50,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans & deferred compensation	(e) Expense account and other allowances
GLORIA A. FELDT 810 7th AVE. NY, N.Y. 10019	PRESIDENT FULL TIME	$ 324,217	$ 16,938	$ 68,000
DAN RUTTBERG 810 7th AVE. NY N.Y. 10019	VP INFORMATION TECHNOLOGY FULL TIME	159,772	0	0
JAMES A. MINOW 810 7th AVE. NY N.Y. 10019	VP DEVELOPMENT FULL TIME	199,473	11,100	0
JOHN ROMO 810 7th AVE. NY N.Y. 10019	C O O FULL TIME	174,231	0	0
JEFFREY D. MECHANICK 810 7th AVE NY N.Y. 10019	VP BUSINESS SUPPORT SERVICES FULL TIME	156,670	8,773	0
Total number of other employees paid over $50,000 ▶				

Part II Compensation of the Five Highest Paid Independent Contractors for Professional Services (See page 1 of the instructions. List each one (whether individuals or firms). If there are none, enter "None.")

(a) Name and address of each independent contractor paid more than $50,000	(b) Type of service	(c) Compensation
OMPW 1726 M. St. N.W. SUITE 200 WASHINGTON D.C. 20036	MAIL HOUSE	$ 2,489,171
BENESON JAYSON ADVERTISING 4220 LANKERSHIM BLVD. STUDIO CITY, CA 91602	ADVERTISING	2,385,293
HITT CONTRACTING PO BOX 18209 MERRIFIELD VA 22118	DC BUILDING CONTRACTORS	2,372,759
FACTOR DIRECT LIMITED 1900 AVE. OF THE STARS, LOSANGELES CA 90067	MAIL HOUSE	909,541
MDM TECHNOLOGIES 333 FIRST STREET ELIZABETH NJ 072206-2015	MAIL HOUSE	530,855
Total number of others receiving over $50,000 for professional services ▶ 44		

Part III Statements About Activities

		Yes	No
1	During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities ▶ $ #735550 Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes," must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities.	1	X	
2	During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any of its trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary:			
a	Sale, exchange, or leasing of property?	2a		X
b	Lending of money or other extension of credit?	2b		X
c	Furnishing of goods, services, or facilities?	2c		X
d	Payment of compensation (or payment or reimbursement of expenses if more than $1,000)?	2d	X	
e	Transfer of any part of its income or assets? If the answer to any question is "Yes," attach a detailed statement explaining the transactions.	2e		X
3	Does the organization make grants for scholarships, fellowships, student loans, etc.?	3		X
4a	Do you have a section 403(b) annuity plan for your employees?	4a	X	
b	Attach a statement to explain how the organization determines that individuals or organizations receiving grants or loans from it in furtherance of its charitable programs qualify to receive payments. (See page 2 of the instructions.)			

Part IV Reason for Non-Private Foundation Status (See pages 2 through 4 of the instructions.)

The organization is not a private foundation because it is: (Please check only ONE applicable box.)

5 ☐ A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
6 ☐ A school. Section 170(b)(1)(A)(ii). (Also complete Part V, page 4.)
7 ☐ A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
8 ☐ A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(v).
9 ☐ A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state ▶
10 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the Support Schedule in Part IV-A.)
11a ☒ An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
11b ☐ A community trust. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
12 ☐ An organization that normally receives: (1) more than 33⅓% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions—subject to certain exceptions, and (2) no more than 33⅓% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Also complete the Support Schedule in Part IV-A.)
13 ☐ An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in: (1) lines 5 through 12 above; or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See page 4 of the instructions.)

(a) Name(s) of supported organization(s)	(b) Line number from above
N/A	

14 ☐ An organization organized and operated to test for public safety. Section 509(a)(4). (See page 4 of the instructions.)

Part IV-A Support Schedule (Complete only if you checked a box on line 10, 11, or 12.) *Use cash method of accounting.*
Note: *You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.*

Calendar year (or fiscal year beginning in) ▶	(a) 1998	(b) 1997	(c) 1996	(d) 1995	(e) Total
15 Gifts, grants, and contributions received. (Do not include unusual grants. See line 28.)	7/98 TO 6/99 44,647,275	7/97 TO 6/98 38,963,207	7/96 TO 6/97 27,303,677	7/95 TO 6/96 27,568,692	129,482,851
16 Membership fees received	5,173,190	4,976,136	4,823,643	4,865,617	19,838,586
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is not a business unrelated to the organization's charitable, etc., purpose	3,622,395	8,292,680	8,133,951	7,363,386	27,472,412
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975	1,361,370	711,013	700,909	622,221	3,395,513
19 Net income from unrelated business activities not included in line 18	0	0	0	0	0
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf	0	0	0	0	0
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge	0	0	0	0	0
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets	0	0	0	0	0
23 Total of lines 15 through 22	51,814,230	46,943,036	40,962,180	40,449,916	180,189,362
24 Line 23 minus line 17	48,191,835	38,650,356	32,828,229	33,086,530	152,716,950
25 Enter 1% of line 23	518,142	469,430	409,622	404,499	

26	**Organizations described on lines 10 or 11:** a Enter 2% of amount in column (e), line 24 ▶	26a	3,054,339
b	Attach a list (which is not open to public inspection) showing the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 1995 through 1998 exceeded the amount shown in line 26a. Enter the sum of all these excess amounts. SCHEDULE - O ▶	26b	10,165,661
c	Total support for section 509(a)(1) test: Enter line 24, column (e) ▶	26c	152,716,950
d	Add: Amounts from column (e) for lines: 18 3,395,513 19 0 22 0 26b 10,165,661 ▶	26d	13,561,174
e	Public support (line 26c minus line 26d total) ▶	26e	139,155,776
f	**Public support percentage (line 26e (numerator) divided by line 26c (denominator))** ▶	26f	91.12 %

27 **Organizations described on line 12:** a For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," attach a list to show the name of, and total amounts received in each year from, each "disqualified person." Enter the sum of such amounts for each year: N/A

(1998) ..... (1997) ..... (1996) ..... (1995) .....

b For any amount included in line 17 that was received from a nondisqualified person, attach a list to show the name of, and amount received for each year, that was more than the larger of (1) the amount on line 25 for the year or (2) $5,000. (Include in the list organizations described in lines 5 through 11, as well as individuals.) After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year:

(1998) ..... (1997) ..... (1996) ..... (1995) .....

c	Add: Amounts from column (e) for lines: 15 _____ 16 _____ 17 _____ 20 _____ 21 _____ ▶	27c	
d	Add: Line 27a total _____ and line 27b total _____ ▶	27d	
e	Public support (line 27c total minus line 27d total) ▶	27e	
f	Total support for section 509(a)(2) test: Enter amount on line 23, column (e) ▶ 27f		
g	**Public support percentage (line 27e (numerator) divided by line 27f (denominator))** ▶	27g	%
h	**Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator))** ▶	27h	%

28 **Unusual Grants:** For an organization described in line 10, 11, or 12 that received any unusual grants during 1995 through 1998, attach a list (which is not open to public inspection) for each year showing the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not include these grants in line 15. (See page 4 of the instructions.) NONE

Part V **Private School Questionnaire** (See page 4 of the instructions.)
(To be completed ONLY by schools that checked the box on line 6 in Part IV) N/A

		Yes	No
29	Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, other governing instrument, or in a resolution of its governing body?	29	
30	Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?	30	
31	Has the organization publicized its racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves?	31	
	If "Yes," please describe; if "No," please explain. (If you need more space, attach a separate statement.)		
32	Does the organization maintain the following:		
a	Records indicating the racial composition of the student body, faculty, and administrative staff?	32a	
b	Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?	32b	
c	Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?	32c	
d	Copies of all material used by the organization or on its behalf to solicit contributions?	32d	
	If you answered "No" to any of the above, please explain. (If you need more space, attach a separate statement.)		
33	Does the organization discriminate by race in any way with respect to:		
a	Students' rights or privileges?	33a	
b	Admissions policies?	33b	
c	Employment of faculty or administrative staff?	33c	
d	Scholarships or other financial assistance?	33d	
e	Educational policies?	33e	
f	Use of facilities?	33f	
g	Athletic programs?	33g	
h	Other extracurricular activities?	33h	
	If you answered "Yes" to any of the above, please explain. (If you need more space, attach a separate statement.)		
34a	Does the organization receive any financial aid or assistance from a governmental agency?	34a	
b	Has the organization's right to such aid ever been revoked or suspended?	34b	
	If you answered "Yes" to either 34a or b, please explain using an attached statement.		
35	Does the organization certify that it has complied with the applicable requirements of sections 4.01 through 4.05 of Rev. Proc. 75-50, 1975-2 C.B. 587, covering racial nondiscrimination? If "No," attach an explanation . . .	35	

Part VI-A Lobbying Expenditures by Electing Public Charities (See page 6 of the instructions.)
(To be completed ONLY by an eligible organization that filed Form 5768)

Check here ▶ a ☐ If the organization belongs to an affiliated group.
Check here ▶ b ☐ If you checked "a" above and "limited control" provisions apply.

Limits on Lobbying Expenditures (The term "expenditures" means amounts paid or incurred.)		(a) Affiliated group totals	(b) To be completed for ALL electing organizations
36 Total lobbying expenditures to influence public opinion (grassroots lobbying)	36		239,248
37 Total lobbying expenditures to influence a legislative body (direct lobbying)	37		496,302
38 Total lobbying expenditures (add lines 36 and 37)	38		735,550
39 Other exempt purpose expenditures	39		49718983
40 Total exempt purpose expenditures (add lines 38 and 39)	40		50454533
41 Lobbying nontaxable amount. Enter the amount from the following table— If the amount on line 40 is— / The lobbying nontaxable amount is— Not over $500,000 — 20% of the amount on line 40. Over $500,000 but not over $1,000,000 — $100,000 plus 15% of the excess over $500,000 Over $1,000,000 but not over $1,500,000 — $175,000 plus 10% of the excess over $1,000,000 Over $1,500,000 but not over $17,000,000 — $225,000 plus 5% of the excess over $1,500,000 Over $17,000,000 — $1,000,000	41		1,000,000
42 Grassroots nontaxable amount (enter 25% of line 41)	42		250,000
43 Subtract line 42 from line 36. Enter -0- if line 42 is more than line 36	43		0
44 Subtract line 41 from line 38. Enter -0- if line 41 is more than line 38	44		0

Caution: *If there is an amount on either line 43 or line 44, you must file Form 4720.*

4-Year Averaging Period Under Section 501(h)
(Some organizations that made a section 501(h) election do not have to complete all of the five columns below. See the instructions for lines 45 through 50 on page 7 of the instructions.)

	Calendar year (or fiscal year beginning in) ▶	(a) 1999	(b) 1998	(c) 1997	(d) 1996	(e) Total
		Lobbying Expenditures During 4-Year Averaging Period				
45	Lobbying nontaxable amount	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
46	Lobbying ceiling amount (150% of line 45(a))					6,000,000
47	Total lobbying expenditures	735,550	339,657	190,612	331,728	1,597,547
48	Grassroots nontaxable amount	250,000	250,000	250,000	250,000	1,000,000
49	Grassroots ceiling amount (150% of line 48(a))					
50	Grassroots lobbying expenditures	239,248	128,099	13,248	226,434	607,029

Part VI-B Lobbying Activity by Nonelecting Public Charities
(For reporting only by organizations that did not complete Part VI-A) (See page 8 of the instructions.)

During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of:	Yes	No	Amount
a Volunteers			
b Paid staff or management (include compensation in expenses reported on lines c through h.)			
c Media advertisements			
d Mailings to members, legislators, or the public			
e Publications, or published or broadcast statements			
f Grants to other organizations for lobbying purposes			
g Direct contact with legislators, their staffs, government officials, or a legislative body			
h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means			
i Total lobbying expenditures (add lines c through h)			

N/A

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities.

Part VII **Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations** (See page 8 of the instructions.)

51 Did the reporting organization directly or indirectly engage in any of the following with any other organization described in section 501(c) of the Code (other than section 501(c)(3) organizations) or in section 527, relating to political organizations?

		Yes	No
a	Transfers from the reporting organization to a noncharitable exempt organization of:		
	(i) Cash	51a(i)	X
	(ii) Other assets	a(ii)	X
b	Other transactions:		
	(i) Sales or exchanges of assets with a noncharitable exempt organization	b(i)	X
	(ii) Purchases of assets from a noncharitable exempt organization	b(ii)	X
	(iii) Rental of facilities, equipment, or other assets	b(iii)	X
	(iv) Reimbursement arrangements	b(iv)	X
	(v) Loans or loan guarantees	b(v)	X
	(vi) Performance of services or membership or fundraising solicitations	b(vi)	X
c	Sharing of facilities, equipment, mailing lists, other assets, or paid employees	c	X

d If the answer to any of the above is "Yes," complete the following schedule. Column (b) should always show the fair market value of the goods, other assets, or services given by the reporting organization. If the organization received less than fair market value in any transaction or sharing arrangement, show in column (d) the value of the goods, other assets, or services received:

(a) Line no.	(b) Amount involved	(c) Name of noncharitable exempt organization	(d) Description of transfers, transactions, and sharing arrangements
51(b) (vi)	$12,000	PLANNED PARENTHOOD ACTION FUND, INC.	ADMINISTRATIVE COST

52a Is the organization directly or indirectly affiliated with, or related to, one or more tax-exempt organizations described in section 501(c) of the Code (other than section 501(c)(3)) or in section 527? ▶ ☒ Yes ☐ No

b If "Yes," complete the following schedule:

(a) Name of organization	(b) Type of organization	(c) Description of relationship
PLANNED PARENTHOOD ACTION FUND, INC.	501 (c) (4)	OVERLAPPING BOARD OF DIRECTORS

000071

Supreme Court U.S.
FILED
(3)
JUL 13 2004
OFFICE OF THE CLERK

04 69
No. _____

In the
Supreme Court of the United States

AGNES BERNARDO, et al.,

Petitioners,

v.

PLANNED PARENTHOOD FEDERATION OF AMERICA. et al.,

Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of California

Volume 2 of 2 of the Appendix
PETITION FOR WRIT OF CERTIORARI

RICHARD THOMPSON
Counsel of Record
EDWARD L. WHITE III
PATRICK T. GILLEN
STUART FAGAN
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Counsel for Petitioners

Becker Gallagher Legal Publishing, Inc.
800.890.5001

Appendix I

Exhibit 10 . . . . . 112a

Exhibit 11 . . . . . 180a-230a

Appendix II

Exhibit 11 . . . . . 231a-455a

Exhibit 12 . . . . . 456a

Exhibit 13 . . . . . 483a

Exhibit 14 . . . . . 512a

[000072]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Schedule-A (Form-990), Part IV-A, Line 26- B
06/30/00

SCHEDULE- O

2% of 1995-1998

	$	4,215,000
		5,000,000
		4,005,000
Total		13,220,000
Less: 1 X 3,054,339 (Line 26a)		3,054,339
Excess Amount	$	10,165,661

NOT OPEN TO THE PUBLIC INSPECTION

[000073]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part I, Line l(d)
06/30/00

SCHEDULE- A

Contributors whose gifts were more than 2% of total gifts on line l(d):

Line l(d): $ 46,820,465
2%

936,409

$ 2,200,000

4,350,000

2,400,827

9,237,050

NOT OPEN TO PUBLIC INSPECTION

[000074]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part I, Line 8A & 8B
06/30/00

SCHEDULE- B

Total Sales *	$	18,213,606
Less: Cost Basis		17,031,635
Net Gain/Loss	$	1,181,971

* Sales of Publicly Traded Marketable Securities.

[000075]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part IV, Line 54
06/30/00

SCHEDULE- C

Schedule of Investments & Securities

	2000
Cash & Liquid Investment Funds	2,861,275
U.S. Government Obligations	19,581,503
Common and Preferred Stock	23,771,188
Municipal Bonds	316,834
Corporate Bonds	6,117,898
Other	1,018,117
Total	53,666,815

[000076]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part 1, Line 20
06/30/00

SCHEDULE D

Other Changes in Fund Balances

Change in value of split-interest agreements		$ 47,870
Gain on beneficial interest in perpetual trust		433,805
Net realized & unrealized gains & losses		2,597,193
Total	$	3,078,868

[000077]

See Foldout Exhibit

Planned Parenthood Federation of America, Inc.
Statement of Financial Expenses
Year Ended June 30, 2000
(with comparable totals for the year ended June 30, 1999

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. **#13-1644147** **SCHEDULE - E**

Statement of Functional Expenses

Year ended June 30, 2000 **Form 990, Parts II & III**

(with comparative totals for the year ended June 30, 1999

	Total Expenses		1999				
			Program Services			Supporting Services	
	1999	2000	Grants and Service to Affiliates U.S.A	Service to Field of Family Planning	Int'l Assistance & Family Planning	Management and General	Fund Raising
Salaries, payroll taxes, etc	$ 13,225,484	16,241,083	6,119,063	4,782,539	1,196,043	2,762,286	1,381,152
Employee health and retirement benefits	1,278,418	1,694,424	669,094	473,504	146,599	265,175	140,052
Total employee compensation	14,503,902	17,935,507	6,788,157	5,256,043	1,342,642	3,027,461	1,521,204
Professional fees & contract service payments	6,531,284	6,513,088	1,438,266	3,444,043	111,551	435,841	1,083,387
Supplies	366,603	461,030	179,254	121,976	28,221	81,712	49,867
Shipments of commodities and supplies	655,758	486,741	319,255	0	167,486	0	0
Telephone and telegraph	636,168	952,248	546,570	240,192	44,080	40,053	81,433
Postage and shipping	4,785,536	3,595,990	275,791	1,306,513	45,931	82,264	1,885,491
Occupancy	2,438,038	2,710,450	1,239,025	593,296	219,866	450,838	207,425
Outside printing, artwork, etc.	1,476,613	2,371,487	301,742	1,057,800	18,393	61,318	932,234
Advertising and public service messages	868,172	2,447,768	110,179	2,293,033	2,800	26,728	15,028
Conferences, meetings, travel & subsistence	3,086,251	3,711,073	1,765,763	949,645	320,733	533,820	141,112
Subscriptions and reference publications	241,435	262,377	28,211	183,630	3,126	31,939	15,471
Awards and grants	4,275,688	6,321,734	3,462,268	972,335	1,692,095	48,770	146,266
Repairs and maintenance	471,895	645,191	215,227	188,966	29,179	159,537	52,282
Staff development/training	196,747	169,786	59,617	18,230	1,252	86,776	3,911
Interest, bank, and lock box fees	243,885	328,155	7,388	38,248	2,574	158,121	121,824
Miscellaneous expenses	600,084	557,249	108,435	99,901	30,544	185,503	132,866
tal expenses before amortization and depreciation	41,378,859	49,469,874	16,845,148	16,763,851	4,060,393	5,410,681	6,389,801
Amortization and depreciation	430,995	884,254	226,817	205,248	71,651	249,966	130,572
Total expenses	$ 41,809,854	50,354,128	17,071,965	16,969,099	4,132,044	5,660,647	6,520,373
Add Regional Councils	108,260	100,405	100,405	Part III, Line	Part III, Line	Part II, Column C	Part II, Columi
Less: Amount related to Donated Services	(308,952)	0	0				
			17,172,370	Part III, Line a			
	41,508,361	50,454,533	Part II, Column A				

* List rental expenses.

000077

BEST AVAILABLE COPY

[000078]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
13-1644147

Form 990, Part IV, Line 57B
06/30/00

SCHEDULE- F

Leasehold Improvements and Equipment

Leasehold improvements and equipment at June 30,2000 consist of the fbllowing

	2000
Land	$ 1,040,000
Building	6,684,593
Leasehold Improvement	487,765
Equipment	6,469,724
	14,682,082
Less accumulated depreciation and amortization	(4,788,968)
Total	9,893,114

[000079]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part II, Line 22
06/30/00

SCHEDULE - G

Schedule of Awards & Grants

FPIA Sub-grants	$ 1,677,075
Awards/Grants to Affiliates	2,295,400
Payments to Affiliated Organizations	261,008
Affiliated Share of Contribution	1,836,185
Payment to Affiliates	134,685
Misc. Sub-Grants	117,381
Total	6,321,734

[000080]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part IV, Line 65
06/30/00

Schedule- H

Other Liabilities

Due to Related Organizations	2,667,402
Amount held for affiliates	2,182,235
Liability under split-interest agreements	4,637,318
Bonds Payable	7,500,000
Total	16,986,955

[000081]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
810 SEVENTH AVENUE, NEW YORK, N.Y. 10019

LIST OF PRESIDENT AND VICE PRESIDENTS

Gloria Feldt 810 Seventh Avenue New York, New York 10019	President & CEO
R. James LeFevre 810 Seventh Avenue New York, New York 10019	Chief Strategic Officer
John Romo 810 Seventh Avenue New York, New York, 10019	Chief Operating Officer
Eve W. Paul 810 Seventh Avenue New York, New York, 10019	General Counsel,Asst. Sec. & V.President Legal Affairs
Beth Otten 810 Seventh Avenue New York, New York 10019	Asst. Secretary
Jeffrey D. Mechanick 810 Seventh Avenue New York, New York 10019	VP Business Support Services/Asst. Treasurer
Larry Moreland 810 Seventh Avenue New York, New York 10019	Chief Financial Officer Asst. Treasurer

Barbara Snow
810 Seventh Avenue
New York, New York 10019
Editor-in-Chief
Dir. Pub. Services

Allie Stickney
810 Seventh Avenue
New York, New York 10019
Vice President
Int'l. Programs

James Minow
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Vice President
Development

Suellen Craig
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New York, New York 10019
Vice President
Affiliate Services

Daniel W. Rutberg
810 Seventh Avenue
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Vice President
Information Technology

[000082]

Vacant
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Vice President
Communications

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810 Seventh Avenue
New York, New York 10019
Acting Vice President
Medical Affairs

Open
810 Seventh Avenue
New York, New York 10019
Vice President
Public Policy

Desiree Bunch 810 Seventh Avenue New York. New York 10019	VP Human Resources And Org development
Michael McGee 810 Seventh Avenue New York, New York 10019	Vice President Education
Linda Gonzalez 810 Seventh Avenue New York, New York 10019	Vice President Diversity
Jill Cobrin 810 Seventh Avenue New York, New York 10019	Vice President Insurance
Joan Coombs 810 Seventh Avenue New York, New York 10019	Senior Vice President External Programs

Nand Kapoor January 31, 2000

[000083]

CONFIDENTIAL
PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.

OFFICERS

Chairperson	Mary Shallenberger 810 Seventh Avenue New York, New York 10019
Vice Chairperson	Alfredo Vigil, MD 810 Seventh Avenue New York, New York 10019
Treasurer	J. Tyler Pugh 810 Seventh Avenue New York, New York 10019
Secretary	Bobbie Fueri 810 Seventh Avenue New York, New York 10019

Officers & Directors receive no compensation in connection with their services.

[000084]

PPFA BOARD OF DIRECTORS

Sharon W. Allison, Hon. Board
810 Seventh Avenue
New York, New York 10019

Cindy Ashley
810 Seventh Avenue
New York, New York 10019

George Huggins, M.D.
810 Seventh Avenue
New York, New York 10019

Suzanne Cluett
810 Seventh Avenue
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Paula A. Johnson, MD
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Rev. Stephen J. Mather
810 Seventh Avenue
New York, New York 10019

Lee Lee Doyle, Ph.D.
810 Seventh Avenue
New York, New York 10019

Mary Cruz Campo
810 Seventh Avenue
New York, New York 10019

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[000085]

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Randall J. Moody
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Jill Vinjamuri
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New York, New York 10019

Virginia Yrun
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New York, New York 10019

[000086]

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Judy N. Tabb
810 Seventh Avenue
New York, New York 10019

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Scott Blanchard
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Sylvia Clark
810 Seventh Avenue
New York, New York 10019

Patricio Gonzales
810 Seventh Avenue
New York, New York 10019

Officers & Directors receive no compensation in connection with their services.

[000087]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part IV-A, Line B-4
06/30/00

SCHEDULE - J

	2000
Change in value of split-interest agreements	47,870
Gain on beneficial interest in perpetual trust	433,805
Total	481,675

[000088]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part VI, Line 80
06130100

SCHEDULE- K

The Federation is related through overlapping boards/common membership to the following organizations:

International Planned Parenthood Federation - tax exempt
Alan Gutttamcher Institute - tax exempt
Planned Protection Insurance Company - taxable*
Planned Parenthood Action Fund, Inc. - tax exempt
Planned Parenthood Foundation - tax exempt

* The federation has also filed an IRS Form 5471 for this entity.

[000089]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
13-1644147

Form 990, Part VI, Line 90
06/30/00

SCHEDULE - L

LIST OF STATES WHERE FORM 990 IS FILED

States	Agency Where Filed

[000090]

ARTICLE II - PURPOSE

We believe that the ability to regulate one's own fertility is a basic human right essential to the emotional, physical, social and economic well-being of the individual, the family, the community, the nation, and the world. Therefore, the purpose of the Federation shall be:

a) To provide leadership:

- in making effective means of voluntary fertility regulation, including contraception, abortion, sterilization, and infertility services, available and fully accessible to all as a central element of reproductive health care;

- in achieving, through informed individual choice, a U.S. population of stable size in an optimum environment;

- in stimulating and sponsoring relevant biomedical, socio-economic, and demographic research;

- in developing appropriate information, education, and training programs;

(b) To support and assist efforts to achieve similar goals in the United States and throughout the world.

Positions and programs adopted in pursuit of the above goals should be constantly reviewed and reevaluated in the light of changing conditions.

The Federation shall not discriminate on the basis of race, color, religion, sex, national origin, age, disability, sexual

orientation, income, marital status, or other bases protected by applicable law.

The Federation reaffirms that where any program with which it is associated becomes tainted with such bias, it will vigorously and promptly disassociate the Federation from it.

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ARTICLE III - MEMBERSHIP

The Federation is a membership organization. Each organization which has been found by the PPFA Board of Directors to have fulfilled the requirements set forth in the Standards of Affiliation (Article XIV) and which has been certified by the Board of Directors as an Affiliate (Article V, Section 6.1) shall have three memberships. Each member of the Board of Directors selected in accordance with Article V, Section 2 shall have one membership.

The retention by an Affiliate of its memberships shall depend upon continuing conformity with the Standards of Affiliation (Article XIV), and may be terminated by the Board of Directors pursuant to Article V, Section 6.n.

The Membership as the policy-forming body of the Federation. It is responsible for approving long-range goals and priorities of the Federation.

The Board of Directors may create such classes of non-voting Associate Membership as it may consider appropriate.

[000092]

ARTICLE IV - MEETINGS OF THE MEMBERSHIP

Section 1. Annual and Special Meetings.

a. **Annual Meeting.** There shall be an Annual Meeting of the Membership at such time and place as shall be determined by the Board of Directors.

All business which comes properly before this meeting shall be transacted, including:

- the election of Directors-at-Large and of the Chairperson and other members of the Nominating Committee, to succeed those whose terms have expired and te fill any vacancies.

- any special business of which due notice has been given by the Secretary in the final notice.

- consideration of reports for the closing year.

- review or amendment of the Federation's Bylaws including the Standards of Affiliation in accordance with Article XV.

- determination of the dues formula for National Program Support to be contributed in the ensuing year by all Affiliates-to the Federation.

Any special business of which due notice has not been given by the Secretary may be placed on the agenda for vote at the request of no fewer than three (3) Affiliates from each Region. Materials regarding such special business must be

mailed by such Affiliates to the National Office, each Affiliate, and each member of the PPFA Board of Directors no later than four (4) weeks in advance of the Annual Meeting.

b. Special Meetings. A special meeting may be called at any time by resolution of the Board of Directors or on the written request of those members entitled to cast ten percent (10%) of the total number of votes at a membership meeting. Special meetings shall deal only with matters of business which have been seated in the call to the meeting.

Section 2. Appointment of Delegates by the Affiliates.

Each Affiliate shall be entitled to appoint a voting delegate to represent each of its memberships at the Annual Membership Meeting or at Special Meetings. The Affiliate's chief executive may be a voting delegate. Each Affiliate shall also be entitled to appoint an alternate delegate to represent each of its three memberships at the Annual Membership Meeting or at special meetings in the absence or inability to serve of the voting delegates. A voting delegate (or an alternate delegate) may be authorized by an Affiliate to vote one, two, or three of its memberships, except, however, that the Affiliate's chief executive may not be authorized, as a delegate or an alternate

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delegate, to vote more than one of the Affiliate's memberships.

Each affiliate shall be entitled to appoint its three (3) delegates and three (3) alternates prior to each annual or special meeting of the membership. Written notice of all

delegate and alternate appointments must be mailed to the Secretary of the Federation postmarked no later than three weeks before the day of the annual membership meeting and two weeks before any special membership meeting. Written notice may also be sent via facsimile (FAX) provided that it is received by the Secretary no later than three business days after the deadline for postmarking notice by mail.

If it becomes necessary to replace a voting delegate with an alternate already appointed as provided above, written notice of the appointment must be received by the Secretary of the Federation no later than noon of the day before the day of the meeting. The alternate shall have all of the rights and shall exercise all of the duties of the voting delegate.

Section 3. Voting.

The voting delegate for each membership of an Affiliate shall have one vote at all meetings of the Membership unless such Affiliate is (i) on probation for failure to submit its annual audit; or (ii) delinquent in payment of its National Program Support; or (iii) it has been placed on administrative probation by the PPFA Board because its audited financial statements report a deficit in expendable net assets; or (iv) its accreditation has been revoked by the PPFA Board of Directors. For this purpose an Affiliate will be considered delinquent if such National Program Support has not been received by the tenth day preceding the day of the Membership Meeting. Each voting delegate may vote in person or by proxy.

Each member of the Board of Directors shall have one (1) vote at all meetings of the Membership and may vote only in person. If a member of the Board of Directors is also an

Affiliate voting delegate, he/she shall have one (1) vote in each capacity.

A proxy may be given by a voting delegate of an Affiliate to the Secretary of the Federation, to a member of the Board of Directors, or to a volunteer voting delegate. Proxies shall be registered with the Secretary of the Federation, or, if the Secretary is absent or unable to serve, with a member of the Board designated by the Chairperson of the Federation by noon of the day before the day of the meeting.

Section 4. Quorum.

A quorum at all meetings of the Membership shall consist of one-third (1/3) of the total number of votes entitled to be cast at a Membership Meeting. An Affiliate shall be considered present in person or by proxy.

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All actions of the Membership shall become effective upon a majority of the votes cast by the persons present in person or by proxy and entitled to vote, except as elsewhere provided.

Section 5. Notices.

a. **Annual Meetings.** First notice of the time and place of the Annual Meeting shall be given by the Secretary by mail at least four (4) months in advance to the last known address of each Affiliate. Materials on matters requiring a vote should be mailed to Affiliates as early as possible and shall be mailed at least six (6) weeks in advance of the Annual Meeting. Final notice shall be sent by the Secretary by mail one (1) month in advance of the Annual Meeting to all Affiliates and their delegates. There shall be included with such notice a suitable form of proxy for use by the delegates.

b. **Special Meetings.** Notice of the time and place of all special meetings shall be given by the Secretary by mail, at least four (4) weeks in advance to the last known address of each Affiliate and to each member of the Board of Directors, except that if the meeting is called by written demand of ten percent (10%) of the members entitled to vote, such demand shall be served on the Secretary and

shall specify the date of the meeting, which shall be not less than two nor more than three months from the date of the written demand. Upon receiving the written demand, the Secretary shall promptly give notice of the meeting or, if he or she fails to do so within five business days, any member signing the demand may give such notice. The notice shall contain a specific statement of the purpose or purposes for which the meeting is to be held. No matter not so specified shall be considered at the meeting. There shall be included with the notice of the special meeting a suitable form of proxy for use by the delegates.

Section 6. Action Without a Meeting.

The Membership may also take action without a meeting by written vote, provided the action has been proposed by the Board of Directors. Notice of the proposal shall be sent to each Affiliate and each member of the Board of Directors.

The notice shall specify a period of sixty (60) days from the date on which the notice is mailed, or such longer period as may be fixed by the Board of Directors, within which votes may be cast.

Each Affiliate shall have one vote for each of its memberships unless such Affiliate is (i) on probation for failure to submit its annual audit; (ii) delinquent in payment of its National Program Support as of the final day on which votes may be cast; or (iii) it has been placed on administrative probation by the PPFA Board because its audited financial statements report a deficit in expendable net assets; or (iv) its accreditation has been revoked by the PPFA Board of Directors. Each member of the Board of Directors shall have one vote.

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Votes shall be in writing and shall be sent by mail or telegram or fax or otherwise delivered to the principal office of the Federation for the attention of the Secretary, and shall be deemed to have been cast on the date on which they are received at that office.

If, by the end of such sixty (60) day period, or such longer period as may have been fixed by the Board of Directors, two-thirds (2/3) of the eligible votes shall be cast in favor of the proposed action, such action shall be approved.

[000096]

ARTICLE V - BOARD OF DIRECTORS

Section 1. Management.

The management of the Federation shall rest with the Board of Directors which may delegate the execution of its programs to appropriate officers and committees.

Section 2. Composition, Election and Tenure.

a. Other than the representative of ACEC, only volunteers shall be members of the Board of Directors. The Board of Directors shall consist of twenty-nine (29) voting members including sixteen (16) members elected by the Membership; three Directors from each of the three Regions, two of whom are selected by the Region, and one of whom is chosen by the National Nominating Committee from among a panel proposed by his/her Region and elected by the Membership; the Chairperson

of PPFA; one (1) member selected by ACEC; one (1) member selected by AGI; and one (1) member selected by NMC.

Directors (excluding the ex-officio directors) shall be divided into three groups; at each Annual Membership Meeting, a new group, numbering approximately one third (1/3), shall be elected.

Whenever, by reason of amendment to the Bylaws, the number of Directors shall be reduced, all Directors then serving shall remain in office for the balance of the terms for which they were elected, and as the term of each group then in office expires, a new group shall be elected in accordance with the new Bylaw provisions, so that the reductions in number shall be phased in.

After submission to the Membership by the National Nominating Committee of nominations for elected Directors, other nominations for elected Directors shall be accepted no later than three (3) weeks before the date of the election, provided that, by such date, the consent of each nominee is obtained and each nomination is endorsed by at least three (3) Affiliates from each Region. The names of the nominees which biographical data and the names of the Affiliates by which they are nominated must be sent by the nominators to the National Office, each Affiliate and each member of the PPFA Board of Directors. A written ballot shall be required when more than one candidate has been proposed for an office.

The representatives of AGI, NMC, and ACEC shall each serve for a one (1) year term, and each of them may be designated tc serve up to five (5) additional consecutive one-year terms. Directors elected by the Membership (or, in the

case of a vacancy, elected by the Board) or selected by the Regions shall serve terms of three (3) years, and each of them may serve one additional three year term. No Director shall be designated or elected for any term which would result in more than six (6) consecutive full years as a Director, except that: (i) the Chairperson may serve as an ex-officio member of the Board in accordance with provisions of Article VI, Section 2, and (ii) a

[000097]

Director elected for an unexpired term of less than six (6) months shall be eligible to serve two (2) additional terms.

A Director who has served six (6) consecutive years is not eligible for reelection for a period of one year following completion of his/her sixth year of service.

The terms of Directors shall begin at the end of the Annual Meeting of the Membership except when vacancies are filled, and shall end when their successors are elected.

A Director may be removed, with or without cause, by a vote of the Membership.

Vacancies of Directors elected by the Membership may be filled in accordance with Article VII, Section 2.b.7. Vacancies among Regionally selected Directors may be filled in accordance with the procedures governing the respective Regions.

The Chairperson shall, following completion of his or her term, be an honorary member of the Board of Directors for one year.

b. The National Nominating Committee shall nominate and the Membership shall elect three persons who are Chief Executives of Affiliates to act as non-voting Advisors to the Board to serve for a term of one year beginning at the end of the Annual Meeting of the Membership. An Advisor shall be eligible to serve up to five (5) additional one-year terms. Any Advisor who has served six terms shall not be eligible for re-election for a period of one year following completion of his/her terms. In the event any such person ceases to be the Chief Executive of an Affiliate during the term, the vacancy shall be filled in accordance with Article VII, Section 2.b.7.

The National Nominating Committee shall receive from ACEC, for election by the Membership, a pool of names of Affiliate Chief Executives to serve as Advisors to the PPFA Board for its regular and special meetings.

Section 3. Meetings.

a. **Regular Meetings.** There shall be at least four (4) and not more than six (6) regular meetings yearly as scheduled by the Board of Directors.

b. **Special Meetings.** Special meetings of the Board of Directors may be called by the Chairperson of the Federation upon his/her own motion or shall be called upon written request of one-third (1/3) of the Directors.

Section 4. Quorum.

A majority of the Directors shall constitute a quorum. In the presence of a quorum, a majority of the Directors in attendance at any meeting of the Board of Directors shall decide its action, except as otherwise provided.

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Section 5. Notice of Board Meetings.

a. **Regular Meetings.** Notice of the time and place of all meetings of the Board of Directors shall be given by the Secretary by mail, one (1) month in advance, to the last known address of each Director.

b. **Special Meetings.** Notice of the time and place of all special meetings of the Board of Directors shall be given by the Secretary by mail, two (2) weeks in advance to the last known address of each D1rector. The notice shall contain a specific statement of the purpose or purposes for which the meeting is to be held. No matter not so specified shall be considered.

Section 6. Powers and Duties.

In addition to the powers and duties conferred and imposed by law or elsewhere in these Bylaws, the Board of Directors:

a. Shall exercise full power and authority to manage the affairs of the Federation, except as otherwise provided in these Bylaws.

b. Shall ensure that the Federation does not engage in any activity which will jeopardize the Federation's federal tax exemption and specifically that the Federation shall not attempt to influence legislation except to the extent permltted by Section 501 or any succeeding or related section of the Internal Revenue Code, nor shall the Federation participate or intervene in any political campaign of any candidate for public office.

c. Shall elect:

(i) the officers specified in Article VI, Section 1 after their nomination by the National Nominating Committee, as provided in Article VII, Section 2.b.6.

(ii) representatives to the Western Hemisphere Region of the International Planned Parenthood Federation in accordance with Article XII.

d. Shall appoint the President as provided for in these bylaws.

e. Shall have the power to remove from office, with or without cause, any elected officer, Committee chairperson, Committee member, or appointee upon the majority vote of the Board of Directors.

f. Shall have the power to remove any member of the Board of Directors who, without adequate reason, fails to attend two (2) Board meetings in a year. The Secretary shall send a notice of such removal, with a copy of this section of the Bylaws, to the Director so affected immediately following action by the Board of Directors.

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g. Shall consider, modify in its discretion, and act upon the annual budget recommended by the committee which addresses matters related to finance, shall recommend a formula for dues and contributions for Affiliates in support of the Federation, and shall false funds for overall Federation operations with the active cooperation of the Affiliates.

h. Shall recommend long-range goals and Federation-wide objectives for Membership approval, and shall approve a program for the ensuing year through which the National Office addresses these goals and objectives.

i. Shall receive an annual evaluation from the PPFA President on the National Office's performance with respect to the goals and objectives contained in the national program plan.

j. Shall promulgate procedures for all committees of the Board and PPFA.

k. May recommend to the Membership amendments of the Bylaws, including the Standards of Affiliation (Article XIV), and the Policy Statements.

l. Shall receive from the Affiliate Development and Accreditation Committee recommendations for affiliation or renewal of affiliation and, in accordance with the Standards of Affiliation (Article XIV), shall accredit new Affiliates, or renewals of affiliation of previously accredited Affiliates.

m. May create classes of non-voting Associate Membership and promulgate standards not inconsistent with the Standards of Affiliation (Article XIV) for the acceptance of such nonvoting Associate Members.

n. May, upon the recommendation of the Affiliate Development and Accreditation Committee, terminate or place on probation any Affiliate or any provisional Affiliate, in accordance with the Standards of Affiliation (Article XIV).

o. Shall evaluate the performance of the President of the Federation at least every two years.

p. Shall determine the compensation of the President.

q. Shall, in accordance with applicable law, present at the annual membership meeting a financial report verified by the Chairperson and Treasurer or by a majority of the Directors, or by a certified public accountant.

Section 7. Financial Responsibilities of Directors.

Each Director shall make a personal contribution to PPFA and shall participate in the fundraising activities of PPFA.

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Section 8. Executive Committee.

a. Composition.

The Executive Committee shall consist of the following persons: the Chairperson, who shall chair the Executive Committee; the Chairperson-Elect, if any; the Vice Chairperson; the Treasurer; the Secretary; the Chairperson of ACEC; and one Regionally elected director from each Region, selected by the Region. If he or she is not a current member of the Board, the Chairperson-Elect shall be a non-voting member of the Executive Committee.

b. Duties.

(1) The Executive Committee shall be responsible to the Board of Directors with full power to act in the

operation and management of the Federation if an urgent matter arises between meetings of the Board.

(2) It shall report in writing its actions to the Board of Directors, which shall be asked to ratify its decisions at the next regularly scheduled Board meeting.

c. <u>Meetings and Voting</u>.

The Executive Committee shall meet at the call of the Chairperson of the Federation, or by petition of at least 2 (two) members of the Executive Committee to address urgent matters that may arise between meetings of the Board of Directors. Timely notice of the time and place of all meetings of the Executive Committee shall be given by the Chairperson by telephone or by express mail to the last known address of each member of the Committee. A majority of the members of the Executive Committee shall constitute a quorum and in the presence of a quorum a majority of the members in attendance at any meeting shall decide its action.

Action of the Executive Committee may be taken any time without a meeting by the unanimous written consent of all the voting members of the Executive Committee to a resolution authorizing such action and any action may be so taken which might have been taken at a meeting duly called. Any such action or resolution in writing signed by all the members of the Executive Committee and recorded by the Chairperson in the book containing the records of meetings of the Committee shall have the same force and effect as if unanimously adopted at a meeting of the Executive Committee duly called and held.

[000101]

ARTICLE VI - OFFICERS

Section 1. Elected Officers.

The elected officers of the Federation shall be a Chairperson, a Vice Chairperson, a Secretary, a Treasurer, and such other officers as the Board of Directors may designate.

Section 2. Election of Officers.

The elected officers shall be selected in accordance with Article V, Section 6.c., at a regular board meeting preceding the Annual Membership Meeting.

a. Chairperson. The term of office of the Chairperson shall be two years. A person may not be elected to serve as Chairperson for more than one term without at least one year intervening between terms. The Chairperson shall continue to serve as a member of the Board irrespective of the expiration of his or her Board term contemporaneously with the beginning of, or during, his or her service as Chairperson.

b. Other. The term of office of each elected officer other than the Chairperson shall be one year and, thereafter, until his or her successor is elected. No person may hold such an elected office for more than three consecutive years.

Section 3. Vacancies.

Any vacancy among the elected officers shall be filled as follows:

a. Chairperson. The Vice-Chairperson shall fill any vacancy in the office of Chairperson. If there is a vacancy in the office of Vice-Chairperson, the Board shall fill that vacancy in accordance with subsection b., below.

b. Other offices. Any vacancy in an office other than that of Chairperson shall be filled by the Board of Directors for the unexpired term of the vacant office. An officer elected to fill a vacancy for an unexpired term of less than six (6) months shall be eligible to serve three (3) additional full terms.

Section 4. Duties of Elected Officers.

a. Chairperson.

(1) The Chairperson shall be the chief officer of the Federation and he/she shall have the powers and shall perform the duties incident to that office.

(2) The Chairperson, in addition to the powers and duties of chief officer, shall:

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(a) preside at all meetings of the Membership and at all meetings of the Board of Directors and of the Executive Committee;

(b) appoint, from among voting members of the Board, subject to the approval of the Board of Directors, the Chairpersons of all committees except the National Nominating Committee, the National Medical Committee and the committee which addresses matters related to finance;

(c) appoint, subject to the approval of the Board of Directors, such other committees, working groups or advisory councils as are deemed necessary, and the members and chairpersons of such committees, working groups, or advisory councils as are deemed necessary by him/her, and the members and chairpersons of such committees, working groups, or advisory councils;

(d) in consultation with the Chairperson of the AGI, appoint to the AGI Board the number of Board members authorized by the special affiliation agreement between PPFA and AGI;

(e) be an ex-officio member of all committees except the National Nominating committee;

(f) Make an annual written report to the Membership;

(g) cause notice to be given of all meetings of the Executive Committee as herein provided; and

(h) be responsible for recording the minutes of all meetings of the Executive Committee and causing copies of the minutes to be sent to all Board members and to all Affiliates of the Federation.

b. <u>Vice Chairperson</u>.

(1) The Vice Chairperson shall perform all the duties of the Chairperson in the absence or inability to serve of the Chairperson, or in the event of a vacancy in that office.

(2) The Vice Chairperson shall perform such other functions as shall be assigned to him/her by the Chairperson.

c. <u>Secretary</u>.

(1) The Secretary shall be responsible for recording the minutes of all meetings of the Membership and of the Board of Directors.

(2) He/She shall cause notice to be given of all meetings of the Membership and of the Board of Directors, as herein provided.

[000103]

(3) He/She shall cause copies of the minutes of the meetings of the Membership and of the Board of Directors to be sent to all Board members and to all Affiliates of the Federation.

d. <u>Treasurer</u>.

The Treasurer shall be responsible for all matters related to the finances of the Federation and shall chair the committee of the Federation which addresses such matters.

Section 5. Staff Officers.

a. Appointment by the Board.

The Board shall appoint the President, who serves as PPFA's chief executive officer and who shall be responsible to the Board.

b. Duties.

The President shall be responsible to the Board for the development, planning, and implementation of current and long-range programs and for the development, formulation and interpretation of policies in accordance with the objectives and goals of the Federation. He/She shall report at each meeting of the Board of Directors on developments within the Federation and in other allied fields.

The President shall ensure that all staff perform their duties in support of the National Program Plan and that they are treated in accordance with current Board policy in the course of their employment.

The President may create one or more Vice Presidencies, one of which may be an Executive vice Presidency, one or more Assistant Secretaryships, and one or more Assistant Treasurerships. Each Vice President shall have such duties and areas of responsibility as the President shall designate. Each Assistant Secretary and Assistant Treasurer shall have such duties and areas of responsibility as the President, with prior approval of the Board of Directors, shall designate.

The President may establish such advisory panels and other groups as he/she shall deem necessary, and may appoint the members and chairpersons of such advisory panels and groups.

Section 6. Officers-Elect.

a. Chairperson-Elect.

Not less than eight months prior to the expiration of the term of office of the Chairperson, the Board shall elect the next person to serve as Chairperson, who shall be known as the Chairperson-Elect. Such election shall be held in accordance with the

[000104]

provisions for nomination set forth in these bylaws. The Chairperson-Elect shall serve as a member of the Executive Committee and is authorized to attend all meetings of committees of the Board or the Federation except meetings of the National Nominating Committee. The Chairperson-Elect may contemporaneously hold any other elected office of the Federation.

b. Other Officers.

After election of officers by the Board prior to the Annual Membership Meeting, such officers shall serve as officers-elect from that date until the close of the Annual Membership Meeting, at which time they shall automatically become officers provided that they are then members of the Board of Directors.

[000105]

ARTICLE VII - COMMITTEES

Section 1. Committees.

In addition to the National Nominating Committee (Article VII, Section 2) which reports to the Membership and the Board of Directors, and the National Medical Committee, which reports to the Board of Directors, there shall be committees of PPFA reporting to the Board of Directors which address the following essential functions:

- o resources acquisition and distribution (including matters related to finance, audit, resources, budget, National Program Support, and fundraising); and

- o affiliation (including matters related to accreditation and development).

The Board of Directors may also create such other committees of PPFA as it deems necessary. All committees shall be representative of the diverse geographic regions and racial and ethnic populations of this country.

Section 2. National Nominating Committee.

a. Composition and Tenure.

The NNC shall be composed of at least eight (8) but not more than eleven (11) members and a Chairperson, all voting members elected in accordance with Article IV, Section 1.a. At least five (5) of these members, including the Chairperson, shall be elected from the voting members of the Board of Directors, and three (3) shall be composed of one (1)

Regional Council Nominating Committee member from each Region. The NNC should be representative of the diverse racial and ethnic populations of this country and, as such, nominations may be made only in accordance with the following guidelines:

(1) The National Nominating Committee shall develop a list of names and will accept names for members of the Nominating Committee for the following year from all sources, including the Regions. From those names, the NNC will nominate four (4) members from the Board of Directors, at least one of whom must be a Person of Color, as defined in Article XIX - DEFINITIONS, below, one member from each of the Regional Council Nominating Committees, and a Chairperson.

(2) After preparing such nominations, the National Nominating Committee will examine the ethnic composition of the slate for the next year's National Nominating Committee. If fewer than one-third (1/3) of the slate is composed of Persons of Color, then the NNC shall nominate one, two, or three additional Persons of Color so that not less

[000106] than one-third (1/3) of the slate proposed to the Membership for the following year's NNC is comprised of Persons of Color.

Nominations for Chairperson of the Nominating Committee and the non-regionally elected members of the Nominating Committee to serve for the ensuing year shall be made by the Nominating Committee.

Other nominations for these positions shall be accepted no later than three weeks before the date of the election, provided the consent of each nominee is obtained in advance and that each nominee is endorsed by at least three Affiliates from each Region. The names of the nominees with biographical data and the names of the Affiliates by which they are nominated must be sent by the nominators to the National Office, each Affiliate and each member of the PPFA Board of Directors. A written ballot shall be required when there are more candidates than vacancies.

Members shall be elected for one (1) year, and may be re-elected to serve for not more than two (2) additional years. A member elected to fill a vacancy for an unexpired term of less than six (6) months shall be eligible to serve for three (3) additional years.

The NNC shall elect a Vice Chairperson who shall perform all the duties of the Chairperson in the absence or inability to serve of the Chairperson.

Vacancies among the non-regionally designated members of the Nominating Committee shall be filled by the Board of Directors in accordance with Article VII, Section 2.b. (7).

b. **Duties.**

(1) The Nominating Committee shall prepare and submit to the Annual Membership Meeting a slate for members of the Board of Directors, pursuant to Article V, Section 2, and a slate for Chairperson and non-regionally elected members of the Nominating Committee for the ensuing year.

(2) It shall evaluate present non-regionally elected members of the Board of Directors before they are proposed for re-elect ion.

(3) It shall send a request to each member of the Board of Directors, to each Affiliate and to each Regional Council eight (8) months prior to the Annual Membership Meeting for names of persons to be considered as candidates for Board members and candidates for the NNC. It shall also send a request to the NMC, the Board of Directors of AGI, and ACEC for the names of their designated candidates.

[000107]

(4) It shall be responsible for outlining to prospective members of the Board of Directors and of the Nominating Committee the duties they will be asked to undertake.

(5) The NNC, six (6) weeks prior to the Annual Membership Meeting, shall send to each Affiliate and to each member of the Board of Directors, the proposed slate of nominations for Directors-at-Large and Directors nominated from the panels proposed by each of the three Regions, and for non-regionally designated members of the NNC. Biographical material on each nominee for the Board of Directors and for the NNC shall be included.

(6) At a regular Board Meeting preceding the Annual Membership Meeting, it shall submit nominations for all officers to the Board and shall notify the

Membership. The persons so nominated may attend all meetings of the Board, the Executive Committee, and the meetings of all committees of the Federation. Nothing contained in this subsection shall be deemed to grant to any person so selected the right to vote at any meeting where such person would not otherwise have a vote, or to require the election of that person by the Board of Directors elected at the Annual Membership Meeting.

(7) At any subsequent meeting of the Board, it shall submit nominations to fill any vacancies occurring among the officers, non-regionally elected directors, Chairperson of the NNC, non-regionally designated members of the NNC, and non-voting Chief Executive Advisors to the Board.

(8) At least three (3) months in advance of the Annual Membership Meeting, it shall make its nomination of the person to serve as Chairperson of the Federation and notify the Membership. The person so nominated may attend all meetings of the Board, the Executive Committee and the meetings of all committees of the Federation. Nothing contained in this subsection shall be deemed to grant to the person so selected the right to vote at any meeting where such person would not otherwise have a vote, or to require the election of that person by the Board of Directors elected at the Annual Membership Meeting.

(9) It shall consult with the Chairperson of the Federation on suggestions for Chairpersons of National Committees to be appointed by him/her

and on representatives to the Western Hemisphere Region Council of the International Planned Parenthood Federation, as provided for in the governing documents of that organization.

Section 3. Other Committees.

The composition of the Affiliate Development and Accreditation Committee shall include one member selected by each Regional Council from among the members of the Board of Directors elected from that Region.

[000108]

Section 4. Committee Meetings.

With the consent of the committee Chairperson, any one or more members of any committee, including the Executive Committee, may participate in a meeting of such committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

[000109]

ARTICLE VIII - REGIONS OF THE FEDERATION

The Board of Directors shall divide the country into three Regions, Eastern, Central, and Western, according to the community of interests in the states which compose each Region.

Each Region shall be a division of the Federation operating under the Federation's Bylaws and supervision, with such staff as the President deems necessary.

The purpose of the Regions is to support the mission of PPFA. A Region's primary functions shall include:

- Providing a forum for discussion and action on matters of concern to Affiliate staff and volunteers;
- Identifying, developing, sustaining, and recognizing volunteers at all levels of Planned Parenthood;
- Serving as a communications link between Affiliates and PPFA, among Affiliates, and among volunteers;
- Identifying and nominating individuals for service on the PPFA Board and committees;
- Furthering the Federation's efforts at achieving diversity throughout the organization;
- Initiating programs in support of volunteers and coordinating activities with other Regions.

Each Region shall have a Regional Council operating under its own rules. Each Regional Council shall elect two (2) persons to serve on the Board of Directors for a term of three (3) years. In addition, each Regional Council shall propose a panel of two (2) to four (4) candidates for the third Board of Directors position representing the Regions in accordance with Article V, Section 2. Each panel of candidates shall

include at least one Person of Color as defined in Article XIX - DEFINITIONS. Each Regional Council shall provide the NNC with the names of and information about its panel of candidates at least four (4) months before the Annual Meeting. Each Regional Council shall notify the NNC of any vacancy in the position of Regionally elected Director or Regionally-based director elected nationally (collectively referred to as "Regionally selected" directors). The appropriate Regional Council shall designate a new person to fill any vacancy in the position of Regionally elected director in accordance with the procedures governing that Region. The NNC, following consultation with the Chairperson of the Regional Nominating Committee, shall designate a new person to fill any vacancy in the position of Regionally-based director elected nationally, giving consideration to the remaining members of the panel proposed by the Regional Council.

The Chairperson of PPFA in consultation with the Regional Chairs shall designate a volunteer voting representative to each committee of PPFA except NNC and the Board Policy Monitoring Committee.

[000110]

ARTICLE IX - AFFILIATE CHIEF EXECUTIVES COUNCIL

There shall be an Affiliate Chief Executives Council of Planned Parenthood, which shall have the right in consultation with the PPFA chairperson to designate a voting representative to each committee of PPFA except the NNC and the Board Policy Monitoring Committee.

[000111]

ARTICLE X - POLICYHOLDERS COUNCIL

There shall be a Policyholders Council directly responsible to the Membership whose composition, tenure and duties shall be as follows:

Section 1. Composition and Tenure.

The Council shall consist of eleven (11) members, including:

The PPFA Treasurer.

The ADA Committee Chairperson.

Four (4) Affiliate Chief Executives designated by the ACEC Chair. Their term of appointment shall be two (2) years and they may serve no more than two (2} consecutive terms.

Two (2) volunteers designated by the PPFA Board Chairperson from the Board of Directors. Their term of appointment shall be one (1) year. They may be reappointed to serve a total of not more than three (3) consecutive terms.

Three (3) volunteers elected by the eight (8) other members of the Policyholders Council. These volunteers preferably shall have a background and expertise in insurance/risk management. Their term of election shall be two (2) years. They may serve no more than two (2) consecutive terms.

All terms shall commence at the first meeting following the Annual Meeting.

Section 2. Duties.

a. The Policyholders Council shall have the final authority with respect to all matters pertaining to the National Insurance Program.

b. The Policyholders Council shall have authority over all matters pertaining to nomination and election of its Chairperson, Vice Chairperson, non-PPFA Board volunteer members, and the U.S. Directors of the Planned Protection Insurance Company, Limited.

c. The Policyholders Council shall report to the Membership at least annually.

[000112]

ARTICLE XI - FUND FOR THE FUTURE COUNCIL

There shall be a Fund for the Future Council ("FFC") that is responsible for developing and administering an endowment fund for affiliate development called the "Fund for the Future." The Council shall report directly to the PPFA Membership.

Section 1. Composition and Tenure.

The Council shall consist of nine (9) members:

Three (3) Affiliate Chief Executives designated by the ACEC Chair.

Three (3) affiliate volunteers, one designated by each of the three (3) regional councils.

Two (2) volunteers designated by the PPFA Chairperson from among members of the PPFA Board of Directors.

One (1) PPFA staff member selected by the PPFA President.

All nine (9) appointments shall be subject to approval by the PPFA Membership at its annual meeting. Each member shall be appointed to a three-year term, and may be appointed to serve a total of no more than two consecutive terms; no member may be appointed to any term that would result in more than six (6) consecutive full years as a member.

Vacancies in unexpired terms may be filled in accordance with the procedures set forth above for election or selection of Council members. A person who fills an unexpired term shall be eligible to serve one additional full term.

The Council shall have a Chairperson, appointed by the PPFA Chairperson, a vice Chairperson, and such other officers as shall be deemed necessary by the Council, who shall be elected by the members of the Council. Each officer shall serve for a term of one year, and may be appointed or elected to serve a total of no more than three (3) consecutive terms in any one office.

Section 2. Duties.

a. The Council shall develop and administer all aspects of a long-term affiliate development endowment fund, to be called the "Fund for the Future," in accordance with the recommendations authorizing the creation of this fund adopted by the PPFA Membership on 10/21/89. The Council shall:

(1) develop, and coordinate a fundraising plan;

(2) oversee implementation of the fundraising plan;

(3) develop criteria for grant-making;

(4) allocate the fund's income; and

[000113]

(5) monitor the success of the fund.

All contributions solicited and accepted for the Fund for the Future shall be solicited on behalf of Planned Parenthood Federation of America, Inc., and shall be accepted by Planned Parenthood Federation of America, Inc., which, by acceptance of such contributions, shall agree to hold such contributed property in a separate fund subject to the decisions of the Council.

b. The PPFA Board of Directors shall retain final authority with respect to the investment and reinvestment of the assets held in the Fund for the Future. All assets held in the Fund for the Future shall be held in an account or accounts in the name of "Planned Parenthood Fund for the Future" and shall be kept separate from all other funds

belonging to Planned Parenthood Federation of America, Inc. The PPFA Finance Committee shall consult periodically with the FFC concerning the overall strategies of investment.

c. The Council shall define the purpose for which grants will be made for the coming year or years and, each year, shall report to the Membership at its annual meeting. The Council has final authority with respect to all distributions from the Fund for the Future to or for the benefit of particular Affiliates. Notwithstanding the preceding sentence, the Fund for the Future Council shall make distributions from the Fund for the Future only from the income earned on the Fund's assets, which may include income attributable to the appreciation of the Fund's assets. Should the Fund's assets diminish, the Fund for the Future Council may, at its discretion, restore the corpus of the fund by reinvesting earnings or by implementing a new fundraising plan, so long as the plan is approved by all participating organizations, including PPFA and its affiliates.

d. Notwithstanding Article XV of these Bylaws, no amendment may be made to this Article unless such amendment is approved at a meeting of the Membership by a vote of three-fourths (3/4) of the persons present in person or by proxy and entitled to vote. Any provision of this Article, including but not limited to the requirement that income only be distributed from the Fund for the Future, may be amended if such amendment is made in accordance with this subsection.

[000114]

ARTICLE XII - INTERNATIONAL REPRESENTATION

The representatives to the Western Hemisphere Region Council of the International Planned Parenthood Federation provided for in the governing documents of that organization shall be elected by the Board. Representatives shall serve for one (1) year and until their successors are elected; no representative shall serve for more than six (6) successive terms provided, however, that in the event a representative is elected as an officer of the International Planned Parenthood Federation Western Hemisphere Region, Inc., for a term which extends beyond the six (6) year term limit, the term limit, the term limit may be waived each year for additional one (1) year terms, at the discretion of the Board. If any elected representative is not a member of the PPFA Board of Directors, he or she shall serve as an honorary member of the Board.

[000115]

ARTICLE XIII - RESTRICTIONS

1. No employee or volunteer shall have the right to incur debts or other financial obligations on behalf of the Federation without the written authorization of the Board of Directors or of the Executive Committee.

2. No employee or volunteer shall use his/her position with Planned Parenthood to further the manufacture, distribution, promotion or sale of any materials, products or services in which he or she has either direct or indirect financial interest.

3. The Trademarks may be used only in accordance with these Bylaws and only by Affiliates of Planned Parenthood Federation of America, Inc. and Permitted Organizations. Termination of the affiliation of an Affiliate or of the permission of any Permitted Organization terminates authority to use the Trademarks.

4. Each Board member and non-Board Committee member shall comply with the conflicts of interest policy established by the Board.

[000116]

ARTICLE XIV - STANDARDS OF AFFILIATION

PREAMBLE

These standards are intended to assure the quality of Planned Parenthood programs and services, to stimulate the achievement of organizational goals and objectives, to recognize Affiliate accomplishments, and to identify areas for growth and development within she Federation.

Section 1. Authority.

a. The Affiliate Development and Accreditation Committee shall be vested with authority over all matters pertaining to recommendations of affiliation and disaffiliation.

b. The Board of Directors shall accredit Affiliates in accordance with Article V, Section 6.k. or terminate the membership of an Affiliate in accordance with Article V, Section 6.m.

c. The Affiliate Development and Accreditation Committee may grant exception to any of these standards if in its judgment the condition necessitating such exception does not jeopardize the objectives and position of PPFA.

Section 2. The Affiliate.

An Affiliate is an organization which:

a. conforms to the purposes, she written policies and standards of PPFA;

b. fulfills the requirements set forth in these Standards of Affiliation;

c. has been granted Affiliate status and use of the Trademarks by the Board of Directors of PPFA;

d. abides by the terms and conditions of such Affiliate status as established by the Board according to accreditation criteria developed by the Affiliate Development and Accreditation Committee;

e. publicly supports the purposes and policies of PPFA and shall develop a program to further those purposes and policies;

f. conducts its affairs in a manner that protects its tax-exempt status and that of PPFA.

Section 3. Affiliate Organizational Structure.

a. Each Affiliate shall be a non-profit organization maintaining federal tax-exempt status under Section 501(c)

(3) or (c) (4) of the Internal Revenue Code of 1954 or any successor section.

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b. Each Affiliate shall be governed by an elected Board of Directors or similar governing body (referred to herein as the Board), the designation of officers or similar leadership structure of which shall conform to applicable laws.

c. Each Affiliate shall be governed by a Board of Directors that does not discriminate in the election of its members on the basis of race, color, religion, sex, national origin, age, sexual orientation, disability, income, or marital status.

d. Each Affiliate Board member shall make a personal financial contribution to the Affiliate.

e. Each Affiliate shall have an elected committee responsible for the nominating process. Each such committee shall include at least one Person of Color as defined in Article XIX - DEFINITIONS.

f. Each Affiliate shall provide for the employment of a chief executive. A permanent record of the annual assessment of the chief executive shall be maintained.

g. Each Affiliate shall have the words "Planned Parenthood" in its name.

Section 4. Affiliate Bylaws.

a. Each Affiliate shall be governed by written bylaws which conform to PPFA policies, which establish the composition of the Board of Directors and its election process, and which meet all other minimum legal requirements.

b. The bylaws shall provide for the appointment of a chief executive, who shall be solely responsible to the Board for the implementation of Board policies, and for all aspects of the agency's operation.

c. The bylaws shall specify that the Board shall be ultimately responsible for the financial well-being of the corporation; the Board's duties shall include adoption and monitoring of an annual budget, and review of the annual audit.

Section 5. Affiliation Mandates.

a. Each Affiliate shall be managed in accordance with sound financial principles, shall maintain accurate books and records in accordance with generally accepted accounting principles which include reporting standards for voluntary health and welfare organizations, and shall comply with the requirements of its funding sources.

b. Each Affiliate which provides medical services shall provide such services in conformity with the Medical Standards and Guidelines promulgated by PPFA.

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c. Each Affiliate shall provide services consistent with the purposes or PPFA.

d. Each Affiliate shall provide services in accordance with PPFA's policy on patients' rights.

e. Each Affiliate shall participate in the PPFA Risk Management and Quality Assurance Programs, and submit required documents in a timely manner.

f. Each Affiliate shall participate in the Planned Parenthood National Insurance Program or have comparable insurance, the comparability of which shall be determined by the Policyholders Council.

g. Each Affiliate shall undertake resource development to ensure diversification and growth of agency funding. Fundraising methods and techniques shall be lawful, ethical, and confidential.

h. Each Affiliate contribute to the support of the Federation according to the Membership-approved National Program Support Plan, but shall not be required to submit its donor list.

i. Each Affiliate shall participate in public affairs activities at the local, state, and national levels. When there is a Planned Parenthood state-wide public affairs organization, each Affiliate with turf in that state shall be a member.

j. Each Affiliate shall serve as a source of education and information about reproductive health and human

sexuality and shall develop varied programs to ensure that such education and information are available.

k. Each Affiliate shall have human resources procedures that have been reviewed by local counsel to ensure conformity to applicable local, state, and federal laws.

l. Each Affiliate shall ensure that minority representation on its Board and staff is reflective of the Civilian Labor Force data for its turf.

m. Each Affiliate shall plan strategically for the future and shall keep a written record of its plan.

n. Each Affiliate shall secure legal counsel and an independent auditor, each to be approved by the Board.

o. Each Affiliate shall submit documents required pursuant to the accreditation criteria developed by the Affiliate Development and Accreditation Committee.

p. Each Affiliate shall adopt and comply with a policy regarding inter-affiliate transfers, accepting transient and transfer patients in accordance with the National Medical Standards and Guidelines.

[000119]

Section 6. General Standards.

a. Neither an employee nor a volunteer of an Affiliate shall use his/her position with the Affiliate to further the manufacture, distribution, promotion, or sale of any materials, products, or services in which he or she has either direct or indirect financial interest.

b. Neither an employee nor a volunteer of an Affiliate shall accept any gift or gratuity from any pharmaceutical firm or other supplier to the Affiliate, or from any provider or potential provider of service to the Affiliate.

c. Each Affiliate shall have a policy that governs the use of its contributors list.

d. No employee of PPFA or any Affiliate, other than the Affiliate chief executive, may serve on the Board of any Affiliate nor hold an elective office nor have voting privileges in any Affiliate.

e. No Planned Parenthood entity shall enter into any contract or other arrangement for the use of a facility that discriminates in its membership policies or otherwise, whether written or in practice, on the basis of race, color, religion, sex, national origin, age, sexual orientation, disability, income, marital status, or other bases protected by applicable law.

Section 7. Affiliate Sub-Units.

a. Each sub-unit of an Affiliate shall be under the direction, supervision, and control of the Affiliate.

b. Policy governing a sub-unit operation shall be set by the Board of the Affiliate.

c. The sub-unit's staff shall be hired by and responsible to the Affiliate's chief executive or his/her designee.

d. The Affiliate shall be responsible for ensuring that all activities, programs, services, and pronouncements of a

sub-unit are in conformity with PPFA Standards and Policies.

Section 8. Other Organizations Permitted to Use the Trademarks.

a. New Organizations.

An organization whose application for Affiliate status is pending consideration by the Affiliate Development and Accreditation Committee may be granted permission by the Affiliate Service Centers to use for a limited time the Trademarks in conjunction with the statement "Application Pending for Affiliation with PPFA." The applicant organization shall, at a minimum:

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(1) publicly support the purposes and policies of PPFA and develop a program to further those purposes and policies;

(2) serve as a source of education and information about reproductive health and human sexuality and develop varied programs to ensure that such education and information are available; and

(3) solicit private citizens and organizations for financial support of its activities.

A new organization at the end of two years must:

(1) become a provisional Affiliate, or

(2) become an Affiliate, or

(3) terminate its use of the Trademarks.

b. Provisional Affiliates.

An organization that has been granted temporary and limited authority to use the Trademarks and whose services and operation conform to all applicable Standards of Affiliation may retain that status for no longer than two years, with approval of the Affiliate Development and Accreditation Committee. Provisional Affiliates that have not been certified within two years as Affiliates shall terminate use of the Trademarks.

c. Special Affiliates.

Special Affiliates' relationships and status shall be set forth in a special affiliation agreement approved by the Board of Directors of PPFA. Compliance with the special affiliation agreement may be reviewed as necessary by the PPFA Board of Directors.

d. Organizations Formed By Two or More Affiliates.

Organizations formed by two or more Affiliates may be granted permission to use the Trademarks for successive two year periods if they report to the Affiliate Development and Accreditation Committee that they:

(1) are controlled by the Affiliates they represent;

(2) are formed to perform for those Affiliates specific services, such as public affairs, that conform to the purposes and policies of PPFA;

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(5) maintain accounting records for both time and money which meet the documentation requirements of the Affiliates and PPFA;

(6) participate in the National Insurance Program of PPFA or obtain comparable coverage approved by the Policyholders Council;

XV, but shall retain all other rights, privileges, and obligations of membership.

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b. <u>Disaffiliation.</u>

(1) Upon the acceptance of the recommendation of the revocation of accreditation as stated in Section 11.a. by the Board of Directors, or upon the Board of Directors' determination that an Affiliate or other organization granted use of the Trademarks is operating in a manner harmful to PPFA, the Board of Directors shall issue a notice of intent to disaffiliate the Affiliate or to revoke the other organization's authority to use the Trademarks and the following procedures shall be followed:

(a) The notice of intent to disaffiliate or revoke authority to use the Trademarks shall be signed by an officer of PPFA and shall be sent immediately to the Affiliate or other organization granted use of the Trademarks by certified mail.

(b) Within thirty (30) days after the mailing of such notice, the Affiliate or other organization granted use of the Trademarks may apply in writing to the Chairperson of PPFA for a hearing which shall be held pursuant to Section 11.d. of this Article.

(c) If the Affiliate or other organization granted use of the Trademarks does not exercise its right to request a hearing, disaffiliation and/or revocation of the authority to use the Trademarks shall be automatic as of the thirty-fifth (35th) day after the mailing of the notice required by Section 11(b) (1) (a) of this Article.

(d) If a hearing is held and the Hearing Board determines that the Affiliate or other organization granted use of the Trademarks should be disaffiliated or authority of the organization to use the Trademarks should be revoked, disaffiliation and/or revocation of the authority to use the Trademarks shall be effective as of the date of the filing of the written report of the Hearing Board with the Secretary of PPFA. Notice of such filing and a copy of the written report of the Hearing Board shall be sent immediately by certified mail to the Affiliate or other organization granted use of the Trademarks.

(e) Within two weeks of the filing of the written report of the Hearing Board, the Board of Directors of PPFA shall review

the Hearing Board's report and shall vote to accept or reject its determination of whether the Affiliate should be disaffiliated or the other organization's **[000124]** authority to use the Trademarks should be revoked. The Board of Directors may delegate this responsibility to the Executive Committee. The following provisions shall apply:

(i) If the Hearing Board determined that the Affiliate should be disaffiliated or other organization's authority to use the Trademarks should be revoked and the Board of Directors accepts this determination, no further action is required.

(ii) If the Hearing Board determined that the Affiliate should be disaffiliated or other organization's authority to use the Trademarks should be revoked and the Board of Directors rejects this determination, disaffiliation and revocation of the authority to use the. Trademarks shall be nullified.

(iii) If the Hearing Board determined that the Affiliate should not be disaffiliated or the other organization's authority to use the Trademarks should not be revoked and the Board of Directors

accepts this determination, no further action is required.

(iv) If the Hearing Board determined that the Affiliate should not be disaffiliated or the other organization's authority to use the Trademarks should not be revoked and the Board of Directors rejects this determination, the Affiliate shall be disaffiliated or the other organization's authority to use the Trademarks shall be revoked. The President of PPFA shall immediately send by certified mail notice of disaffiliation to the Affiliate or notice of revocation of the authority to use the Trademarks to the other organization formerly authorized to use the Trademarks. Disaffiliation and/or revocation of the authority to use the Trademarks shall be effective at 12:01 A.M. Eastern time on the thirtieth day following mailing of the notice.

c. <u>Cease and Desist Procedure.</u>

(1) WHENEVER:

(a) The Chairperson of PPFA, the Chairperson of the National Medical Committee, and the Chairperson of the Affiliate Development and Accreditation **[000125]** Committee, in consultation with the President of PPFA, have made a unanimous written determination that an Affiliate is engaging in a medical practice

which is contrary to the Medical Standards of PPFA and/or which may jeopardize the life or health of patients and/or may place the Affiliate and PPFA in serious jeopardy of increased liability risk, and have filed such determination with the Secretary of PPFA, the National Insurance Program, and the Policyholders Council; or

(b) The Chairperson of PPFA, the Chairperson of the Affiliate Development and Accreditation Committee, and one of the regionally selected directors from the Region within which the Affiliate is located, in consultation with the President of PPFA, have made a joint written determination that an Affiliate is engaging in an activity, other than a medical practice, which in their judgment is harmful to and seriously jeopardizes the welfare of the Affiliate and/or PPFA, and have filed such determination with the Secretary of PPFA;

THEN the President of PPFA shall issue a written order that such Affiliate cease and desist from the offending practice or activity within a specified time. Such written order shall be communicated immediately to the Affiliate by registered mail.

Within seven (7) business days of receipt of such order, provided that the Affiliate is in compliance with the cease and desist order, the Affiliate may apply in writing to the Chairperson of PPFA for a hearing pursuant to Section 11.d. of this Article. The hearing shall be held within seven (7) business days after receipt of the request for a hearing at a time and place

specified by the Chairperson of PPFA unless the Affiliate requests an extension of time. The written report of the Hearing Board shall be filed with the Secretary of PPFA within five (5) days after the close of the hearing. Notice of such filing, with a copy of the written report, shall be sent immediately to the Affiliate by registered mail.

(2) If the Hearing Board concurs that the Affiliate shall cease and desist from the offending practice or activity, the Affiliate shall continue to comply with the cease and desist order. If the Affiliate fails or refuses to comply with the cease and desist order, the Chairperson of PPFA shall recommend in writing to the Board of Directors of PPFA, with a copy to the Affiliate by registered mail, the immediate disaffiliation of such Affiliate. The written recommendation shall be supported by documentation sufficient for the Board of Directors to make an informed judgment. At the next regular meeting of the Board of Directors of PPFA, or at a special meeting called for such purpose, the Board shall review the record, receive any new evidence, and **[000126]** may vote the immediate disaffiliation of such Affiliate or take such other actions it deems appropriate. The Affiliate shall receive a copy of the notice of the meeting and shall be entitled to be present. The action of the Board of Directors of PPFA shall be final and the Affiliate shall have no right to a further hearing before a Hearing Board.

d. <u>Hearing Boards.</u>

(1) Whenever an Affiliate or other organization applies to the Chairperson of PPFA for a hearing

before a Hearing Board as provided in this Section, a Hearing Board shall be appointed to conduct such hearing. The Hearing Board shall consist of five (5) persons, four (4) of whom shall be members of the PPFA Board of Directors, and one (1) of whom shall be the Chairperson of the National Executive Directors Council or his or her designee. The four PPFA Board members shall be designated as follows: three by the Chairperson of PPFA, and one by the Affiliate or other organization which requested the hearing.

(2) The Chairperson of PPFA shall designate one of his/her appointees as Chairperson of the Hearing Board. The Chairperson of the Hearing Board shall set the time and place of the hearing, which shall occur within seven (7) business days from receipt of the application for a hearing unless the Affiliate or other organization applying for the hearing requests an extension of time. The Hearing Board shall review the action of the Board of Directors or the order issued by the President of PPFA, as the case may be. The Affiliate or Other organization which requested the hearing shall be entitled to appear before the Hearing Board and to be represented by counsel. The Hearing Board may request the appearance before it of any person it deems necessary. The Vice President for Legal Affairs of PPFA or other counsel shall advise the Hearing Board with respect to the procedures to be observed in the hearing and the Hearing Board shall follow such procedures as are necessary to assure a prompt, fair and expeditious hearing. Within five (5) business days of completion of the hearing, the Hearing Board shall by majority vote

either concur in or not concur in the action taken by the Board of Directors or the order issued by the President of PPFA, as the case may be, by written report filed with the Secretary of PPFA and sent by registered mail to the Affiliate or other organization which requested the hearing.

e. Loss of Use of Trademarks.

A former Affiliate or other organization which loses the right to use the Trademarks shall immediately cease use of said trademarks in any connection whatsoever and shall simultaneously cease to use logos and/or telephone numbers identified with the name "Planned Parenthood." PPFA shall **[000127]** make appropriate arrangements for continuity of patient care.

Section 12. Final Disposition.

Assets remaining to a former Affiliate upon disaffiliation or voluntary or involuntary termination may be retained by the former Affiliate if it continues to be eligible under federal and state laws. If these requirements are not met, the assets shall be transferred at the option of the PPFA Board of Directors in accordance with applicable state and federal laws, either to PPEA or to another non-profit organization which fulfills such requirements.

Section 13.Responsibilities of the Federation and National Office to Affiliates.

a. Authority.

(1) The Federation's goals and objectives shall be stated in the Strategic Plan as approved by the

Membership and updated annually by the PPFA Board of Directors, as an integral part of its planning process.

(2) The Board of Directors shall adopt an appropriate evaluation process to be used by Affiliates in evaluating the performance of the National Office with respect to the goals and objectives of the Strategic Plan.

(3) The Board shall report to the Membership each year on the results of this evaluation.

b. <u>The National Office.</u>

(1) The National Office functions on behalf of Affiliates to provide the leadership required for policy and program initiatives. It also administers the standards mandated by the Membership and supports the growth and development of Affiliates In carrying out the goals and objectives of the Strategic Plan.

(a) The National Office provides a structure that encourages Affiliates to participate in the planning and executing of policies that lead to achievement of the goals of the Strategic Plan.

(b) The National Office supports the work of Affiliates in providing leadership, support, and services to facilitate the delivery of reproductive health care to all those who want and need it.

(c) Consistent with its fundraising agreements with Affiliates, the National Office shall conduct solicitation of private citizens and organizations for the financial support of its total program.

[000128]

(d) The National Office shall be accountable to Affiliates for the activities it has conducted on their behalf and for the National Program Support collected in its support.

(2) The National Office shall provide guidance and counsel on legal matters of national consequence that protect the tax-exempt status of Affiliates and EPFA.

c. <u>Organizational Standards</u>

(1) The Federation shall!maintain and promote a planning process that encourages Affiliates to measure the impact of the National OffiCe on agreed-to goals and objectives.

(2) The National Office shall have a current affirmative action program which ensures that minority representation on the PPFA staff is reflective of the Civilian Labor Force Data in the recruiting area.

[000129]

ARTICLE XV - AMENDMENT OF BYLAWS

Section 1.

Amendment of Bylaws, including the Standards of Affiliation, may be proposed by the Board of Directors, or by written request of one-third (1/3) of the Affiliates.

Section 2.

These Bylaws may be amended at any meeting of the Membership by a vote of two-Thirds (2/3) of the persons present in person or by proxy and entitled to vote, in the presence of a quorum and provided that notice of the proposed amendment has been sent to all Affiliates and all members of the Board of Directors not less than six (6) weeks before the meeting, and provided that a copy of the proposed amendment shall accompany the notice.

Section 3.

These Bylaws may also be amended by written vote without a meeting of the Membership, provided the amendment has been proposed by the Board of Directors. Notice of the proposal shall be sent to each Affiliate and each member of the Board of Directors, accompanied by a copy of the proposed amendment and a copy of or reference to the provisions of this Section 3.

Two or more amendments which are closely related in subject matter may be grouped together and voted on as if they were a single amendment.

The notice shall specify a period of sixty (60) days from the date on which the notice is mailed, or such longer period as may be fixed by the Board of Directors, within which votes may be cast.

Each Affiliate shall have one vote for each of its memberships unless such Affiliate is (i) on probation for failure to submit its annual audit; (ii) delinquent in payment of its National Program Support as of the final day on which votes may be cast; or (iii) it has been placed on administrative probation by the PPFA Board because its audited financial statements report a deficit in expendable net assets; or (iv) its accreditation has been revoked by the PPFA Board of Directors. Each member of the Board of Directors shall have one vote.

Votes shall be in writing and shall be sent by mail or telegram or otherwise delivered to the principal office of the Federation for the attention of the Secretary, and shall be deemed to have been cast on the date on which they are received at that office.

If two-thirds (2/3) of the eligible votes shall be cast in favor of the proposed amendment, it shall become effective as of the end of such period.

[000130]

ARTICLE XVI - AMENDMENT OF CERTIFICATE OF INCORPORATION

The Certificate of Incorporation of the Planned Parenthood Federation of America, Inc., may be amended at any Annual Meeting of the Membership by a two-thirds (2/3) vote of the members present in person or by proxy, in the

presence of a quorum and providing that notice of the proposed revision has been sent to all Affiliates not less than six (6) weeks before the meeting, and providing that a copy of the proposed amendment shall accompany the notice.

[000131]

ARTICLE XVII - PARLIAMENTARY AUTHORITY

Robert's Rules of Order (Newly Revised) shall govern all meetings of the Planned Parenthood Federation of America, Inc. in all cases to which they are applicable and in which they are not inconsistent with these Bylaws.

[000132]

ARTICLE XVIII - INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Federation shall indemnify to the full extent permitted by law against damages, judgments, settlements, costs, charges, and expenses incurred in connection with the defense of any action, suit or proceeding or any appeal therefrom, any person or his or her personal representative, made, or threatened to be made a party to such action, suit, or proceeding, whether civil or criminal by reason of the fact that such person is or was a Director or Officer of the Federation.

[000133]

ARTICLE XIX - DEFINITIONS

ACEC - Affiliate Chief Executives Council (formerly National Executive Directors Council) (See Article IX).

ADA Committee - Affiliate Development and Accreditation Committee.

AGT - The Alan Guttmacher Institute, a Not-for-Profit Corporation for Reproductive Health Research, Policy Analysis and Public Education; a Special Affiliate of PPFA.

Ex-officio membership - Membershlp by virtue of an office held in the Federation or another organization as defined in the Bylaws. An *ex-offlcio* member shall have all the rights and powers of any other Board member.

Honorary membership - In PPFA, restricted to those persons who have served as Chairperson of the Federation in accordance with Article V, Section 2, and representatives to the Western Hemisphere Region Council of the Internatlonal Planned Parenthood Federation who are not members of the PPFA Board of Directors, in accordance with Article XII. Such persons shall be honorary members of the Board without vote, and shall have the right to receive all communications sent to Board members and to speak at Board meetings.

IPPF/WHR - Western Hemisphere Region of the International Planned Parenthood Federation.

NMC - National Medical Committee.

NNC - National Nominating Committee.

Person of Color - For purposes of these Bylaws, a Person of Color is one who is a member of the Alaskan Eskimo, American Indian, Asian, Black, Hispanic, or Pacific Islander racial groups, as defined in Title 41, Code of Federal Regulations, Section 60-4.3, or such other ethnic community recognized as a racial or ethnic minority by the Equal Employment Opportunity Commission of the United States of America.

PHC - Policyholders Council (see Article X).

[000134]

ARTICLE XX - TRANSITION BYLAWS

Section 1.

These bylaws of the Planned Parenthood Federation of America (PPFA) were amended by the Membership of PPFA at their annual meeting on the 15th day of November, 1997 (the 1997 Annual Meeting. Because of the Nature of the changes adopted by the members, all amendments approved at the 1997 Annual Meeting other than these addressed in this ARTICLE XX, were effective immediately following that annual meeting. With respect to those amendments addressed below, the transition from the bylaws existing prior to the 1997 Annual Meeting (the Old Bylaws) to those bylaws adopted at the meeting (the New Bylaws) will be effected in accordance with this Article XX.

Section2.

These amendments to the bylaws of PPFA for which transition is addressed by this ARTICLE XX are the following:

(A) Reduction in Number of Elected Members of the Board of Directors of PPFA. Prior to the adoption of the amendment, the Board of Directors of PPFA (the Board) consisted of 35 members, some of whom were elected in varying manners and some of whom were *ex-officio* members of the Board as a result of being elected by or holding a psot with another transition from that previous position is sixteen (16) directors at large elected by the Membership; two directors from each of the four Regions, one of whom is selected by

the Region, and the other is chosen by the National Membership Committee from among a panel proposed by his/her Region and elected by the Membership; and five (5) ex-*officio* members, as set forth in Article V, Section 2 of these bylaws. Concurrently therewith, the terms of Directors of PPFA were changed from two year terms, with a maximun, of three consecutive terms (the Old Limitation), to three year terms with a maximum of two consecutive terms the New Limitation). The transition from the Old Bylaws to the New Bylaws with respect to other than *ex-officio* members of the Board shall be as follows:

(1) Existing Directors. The transition to the New Bylaws will not affect the term of office or length of term of any Director whose term of office is in existence at, or begins with, the 1997 Annual Meeting. Thus, all persons who are elected prior to, or whose terms begin with, the 1997 Annual Meeting will be subject to the Old Limitation. All persons elected after the close of the 1997 Annual Meeting as Directors for the first term of a series of consecutive terms will be subject to the New Limitation.

[000135]

(2) Regional Representation. It is the intention of these Transition Bylaws to preserve one regionally elected position and one regionally based, nationally elected position for each Region until the transition to the New Bylaws is complete.

(3) Subsequent Elections. For all elections after the 2000 Annual Meeting, persons subject to the Old Limitation who reach the end of their term limitations will be replaced with persons who are subject to the New Limitation.

(4) Vacancies. If any person who is serving a term of office as a regionally based, nationally elected director ceases to serve in such capacity before reaching the end of the applicable term limitation, and if that person's departure causes there to be an absence of a director in such capacity in any of the four (4) Regions, that person shall be replaced by the NNC, choosing from a panel proposed by that Region and elected by the Membership. Vacancies among dlrectors at large shall not be filled during the transition period unless they cause the total number of directors to fall below 29.

(5) Terms of Directors under Old Limitatlon. The term of a Director who under this Artlcle XX does not have a successor shall expire at the time his or her successor would have been elected.

(B) Reduction in the *ex-officio* Members of the Board of Directors of PPFA. One of the amendments to the bylaws of PPFA reduces the number of persons who are members of the Board *ex-officio* positions with other organizations. Under the Old Bylaws, there were two members of the Board who were

representatives of the Alan Guttmacher Institute (AGI) and one member of the Board who was a representative of IPPF/WHR. Under the New Bylaws, there is one member of the Board who is a representative of AGI and there is not any representative of IPPF/WHR on the Board. As is the case with respect to elected members of the Board, the transition to the New Bylaws will not affect the term of office or length of term of any *ex-officio* Director whose term of office is in existence at, or begins with, the 1997 Annual Meeting. After the expiration of the current term of any such person who is serving as an *ex-officio* member of the Board as of the close of the 1997 Annual Meeting, the posltion of the IPPF/WHR representative will not be filled and only one of the AGI positions will continue to be filled.

Section 3.

The provisions of this ARTICLE XX of the Bylaws of PPFA are designed to operate only to effect the transition from the Old Bylaws to the New Bylaws. As such, these provisions shall be **[000136]** self-limiting and self-expunging. Section 2(A) hereof shall expire at the close of the 2000 Annual Meeting of the membership of PPFA. Section 2(B) hereof shall expire at the termination of the maximum limit of the term of an *ex-officio* member of the Board who is serving at, or whose term begins with, the close of the 1997 Annual Meeting. A provision of this Article XX, upon its expiration, shall automatically and without further action by the Board, the membership fo PPFA, or any other body, be expunged and deleted from these Bylaws. Upon the expiration of the last provision of this ARTICLE XX to expire, this entire ARTICLE XX shall automatically and without further action

by the Board, the membership of PPFA, or any other body, be expunged and deleted from these Bylaws.

*Because of the change in meeting dates, all references in this Article XX to the 1999 Annual Meeting of the PPFA Membership shall be read to mean the 2000 Annual Meeting of the PPFA Membership. All references in this Article XX to the 2000 Annual meeting of the Membership shall be read to mean the 2001 Annual Meeting of the PPFA Membership.

[000137]

ARTICLE XXI - TRANSITION BYLAWS 2

Section 1.

These bylaws of PPFA were further amended by the PPFA Membership at their annual meeting on the 25th day of March, 2000 (the 2000 Annual Meeting). Because of the nature of the changes adopted by the members, all amendments approved at the 2000 Annual Meeting other than those addressed in this ARTICLE XXI were effective immediately following that annual meeting. With respect to those amendments addressed below, the transition from the bylaws existing prior to the 2000 Annual Meeting (the Unrevised Bylaws) to those adopted at that meeting (the Revised Bylaws) will be effected in accordance with this ARTICLE XXI.

Section 2

Those amendments to the PPFA bylaws for which transition is addressed by this ARTICLE XXI are the following:

(A) Change in the Composition of the PPFA Board of Directors. Prior to the adoption of the amendment, the PPFA Board included two (2) directors from each of the four (4) Regions. Following the adoption of the amendment, the PPFA Board shall include three (3) directors from each of the three (3) Regions, two of whom are selected by the Region, and one of whom is chosen by the NNC from among a panel proposed by his/her Region and elected by the Membership. The Board shall no longer include one (i) member selected by the [former]Volunteer Leadership Council. The transition from the UnrevisedBylaws to the Revised Bylaws shall be as follows:

(1) Existing Directors. The transition to the Revised Bylaws will not affect the term of office or length of term of any Director whose term of office is in existence at, or begins with, the 2000 Annual Meeting.

(2) Regional Representation. It is the intention of these Transition Bylaws to preserve two regionally elected positions and one regionally based, nationally elected position for each of the three new Regions.

(3) 2000-2001. Under the Unrevised Bylaws, there would be sixteen (16) Board positions to be filled at the 2000 Annual Meeting of the PPFA Membership. These consist of eleven (11) directors at large elected by the Membership (some of which positions may be filled by persons currently serving who

are eligible for additional terms); three (3) regionally elected directors; and two (2) regionally based, nationally elected **[000138]** directors. All of these vacancies will be filled. Of the sixteen (16) vacancies filled, any vacancies in the regionally elected categories shall be filled first by the Regions, and any vacancies in regionally based, nationally elected categories shall be filled next by the NNC. Any existing Board member who had not completed his or her term, and who was in a position from a Region which was eliminated and who was not selected by a Region shall become a director at large. The remaining positions will then be filled by directors at large. The Board of Directors will then be comprised (not counting the *ex officio* members) of sixteen (16) directors at large, six (6) regionally elected directors, and three (3) regionally based, nationally elected directors.

Section 3.

The provisions of this ARTICLE XXI of the PPFA Bylaws are designed to operate only to effect the transition from the Unrevised Bylaws to the Revised Bylaws. As such, these provisions shall be self-limiting and self-expunging. Section 2. (A) (3) hereof shall expire at the close of the 2000 Annual Meeting of the PPFA Membership. The remaining provisions of this ARTICLE XXI shall expire at the end of the term of office of any regionally elected or regionally-based, nationally elected director whose term of office was in existence at, or began with, the 2000 Annual Membership

Meeting. Upon expiration, said provisions shall automatically and without further action by the Board, the Membership, or any other body, be expunged and deleted from these Bylaws.

[000139]

Behind every choice is a story. . .
1999-2000 ANNUAL REPORT

"A friend told me about Planned Parenthood. Having had health care coverage through my previous jobs, I always thought that I wouldn't be eligible for these services. I checked the Web site, and read about the services and education offered by Planned Parenthood. I was quite impressed. I went without an appointment. I saw women of all races and economic groups. Everyone was treated with respect and attended to quickly. The nurse who saw me was incredible. She explained everything about my pelvic exam in great detail. She was probably the best practitioner I've ever had. - L.B.

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.

[000140]

Eisner

PLANNEDPARENTHOOD FEDERATION OF AMERICA, INC.

CONSOLIDATED FINANCIAL STATEMENTS

JUNE 30, 2000 and 1999

See Foldout Exhibits
Consolidated Financial Statements

[000141-000154]

Form **2758**
(Rev. June 1998)
Department of the Treasury
Internal Revenue Service

Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns

▶ File a separate application for each return.

OMB No. 1545-0142

Please type or print. File the original and one copy by the due date for filing your return. See instructions.

Name: PLANNED PARENTHOOD FEDERATION OF AMERICA INC.

Employer identification number: 13-1644147

Number, street, and room or suite no. (or P.O. box no. if mail is not delivered to street address): 810 SEVENTH AVENUE

City, town or post office, state, and ZIP code. For a foreign address, see instructions: NEW YORK, NY 10019

Note: *Corporate income tax return filers must use Form 7004 to request an extension of time to file. Partnerships, REMICs, and trusts must use Form 8736 to request an extension of time to file Form 1065, 1066, or 1041.*

1 I request an extension of time until MAY 15, 2001, to file (check only one):

☐ Form 706-GS(D)	☐ Form 990-T (sec. 401(a) or 408(a) trust)	☐ Form 1120-ND (sec. 4951 taxes)	☐ Form 8612
☐ Form 706-GS(T)	☐ Form 990-T (trust other than above)	☐ Form 3520-A	☐ Form 8613
☒ Form 990 or 990-EZ	☐ Form 1041 (estate) (see instructions)	☐ Form 4720	☐ Form 8725
☐ Form 990-BL	☐ Form 1041-A	☐ Form 5227	☐ Form 8804
☐ Form 990-PF	☐ Form 1042	☐ Form 6069	☐ Form 8831

If the organization does not have an office or place of business in the United States, check this box ▶ ☐

2a For calendar year _____, or other tax year beginning JULY 1, 1999 and ending JUNE 30, 2000.

b If this tax year is for less than 12 months, check reason: ☐ Initial return ☐ Final return ☐ Change in accounting period

3 Has an extension of time to file been previously granted for this tax year? ☒ Yes ☐ No

4 State in detail why you need the extension: AWAITING THIRD PARTY INFORMATION TO FILE A COMPLETE AND ACCURATE RETURN.

5a If this form is for Form 706-GS(D), 706-GS(T), 990-BL, 990-PF, 990-T, 1041 (estate), 1042, 1120-ND, 4720, 6069, 8612, 8613, 8725, 8804, or 8831, enter the tentative tax, less any nonrefundable credits. See instructions. ..... $ _____

b If this form is for Form 990-PF, 990-T, 1041 (estate), 1042, or 8804, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit ..... $ _____

c Balance due. Subtract line 5b from line 5a. Include your payment with this form, or deposit with FTD coupon if required. See instructions ..... $ _____

RECEIVED
FEB 15 2001
OGDEN, UT

Signature and Verification

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete; and that I am authorized to prepare this form.

Signature ▶ Julie A Flesch Title ▶ CPA Date ▶ 2/8/01

FILE ORIGINAL AND ONE COPY. The IRS will show below whether or not your application is approved and will return the copy.

Notice to Applicant — To Be Completed by the IRS

☒ We HAVE approved your application. Please attach this form to your return.

☐ We HAVE NOT approved your application. However, we have granted a 10-day grace period from the later of the date shown below or the due date of your return (including any prior extensions). This grace period is considered to be a valid extension of time for elections otherwise required to be made on a timely return. Please attach this form to your return.

☐ We HAVE NOT approved your application. After considering the reasons stated in item 4, we cannot grant your request for an extension of time to file. We are not granting the 10-day grace period.

☐ We cannot consider you _____ date of the return for which an extension was requested.

☐ Other: IN THE FUTURE EXTENSIONS FOR FORMS 990PF, 990, 990EZ, 990T, 990BL, 4720, 5227, 1041A, 6069, AND 8870 MUST FILE USING FORM 8868.

_____ Director _____ _____ Date

If you want a copy of this form to be returned to an address other than that shown above, please enter the address to which the copy should be sent.

Please Type or Print

Name: RICHARD A. EISNER & CO. LLP ATTN: RHONDA LIEBOWITZ

Number, street, and room or suite no. (or P.O. box no. if mail is not delivered to street address): 575 MADISON AVENUE

City, town, or post office, state, and ZIP code. For a foreign address, see instructions: NEW YORK, NY 10022-2597

For Paperwork Reduction Act Notice, see back of form.

Form **2758** (Rev. 6-98)

BA
STF FED4852F

BEST AVAILABLE COPY

C00141

Form **2758** (Rev. June 1998)

Department of the Treasury Internal Revenue Service

Application for Extension of Time to File Certain Excise, Income, Information, and Other Returns

▶ File a separate application for each return.

OMB No. 1545-0144

Please type or print. File the original and one copy by the due date for filing your return. See instructions on back.

Name

PLANNED PARENTHOOD FEDERATION OF AMERICA INC.

Employer identification number

13-1644147

Number, street, and room or suite no. (or P.O. box no. if mail is not delivered to street address)

810 SEVENTH AVENUE

City, town or post office, state, and ZIP code. For a foreign address, see instructions.

NEW YORK, NY 10019

Note: *Corporate income tax return filers must use* Form 7004 *to request an extension of time to file. Partnerships, REMICs, and trust must use* Form 8736 *to request an extension of time to file Form 1065, 1066, or 1041.*

1 I request an extension of time until _____, to file (check only one):

☐ Form 706-GS(D)	☐ Form 990-T (sec. 401(a) or 408(a) trust)	☐ Form 1120-ND (sec. 4951 taxes)	☐ Form 8612
☐ Form 706-GS(T)	☐ Form 990-T (trust other than above)	☐ Form 3520-A	☐ Form 8613
☒ Form 990 or 990-EZ	☐ Form 1041 (estate) (see instructions)	☐ Form 4720	☐ Form 8725
☐ Form 990-BL	☐ Form 1041-A	☐ Form 5227	☐ Form 8804
☐ Form 990-PF	☐ Form 1042	☐ Form 6069	☐ Form 8831

If the organization does not have an office or place of business in the United States, check this box ▶ ☐

2a For calendar year ____, or other tax year beginning 07/01/1999 and ending 06/30/2000

b If this tax year is for less than 12 months, check reason: ☐ Initial return ☐ Final return ☐ Change in accounting period

3 Has an extension of time to file been previously granted for this tax year? ☐ Yes ☒ No

4 State in detail why you need the extension AWAITING THIRD PARTY INFORMATION NECESSARY TO FILE A COMPLETE AND ACCURATE RETURN.

5a If this form is for Form 706-GS(D), 706-GS(T), 990-BL, 990-PF, 990-T, 1041 (estate), 1042, 1120-ND, 4720, 6069, 8612, 8613, 8725, 8804, or 8831, enter the tentative tax, less any nonrefundable credits. See instructions . . . $

b If this form is for Form 990-PF, 990-T, 1041 (estate), 1042, or 8804, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit . . . . . $

c Balance due. Subtract line 5b from line 5a. Include your payment with this form, or deposit with FTD coupon if required. See instructions . . . . . $

Signature and Verification

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete; and that I am authorized to prepare this form.

Signature ▶ Dulet d Flock Title ▶ CPA Date ▶ 11/6/00

FILE ORIGINAL AND ONE COPY. The IRS will show below whether or not your application is approved and will return the copy.

Notice to Applicant - To Be Completed by the IRS

☑ We HAVE approved your application. Please attach this form to your return.

☐ We HAVE NOT approved your application. However, we have granted a 10-day grace period from the later of the date shown below or the due date of your return (including any prior extensions). This grace period is considered to be a valid extension of time for elections otherwise required to be made on a timely return. Please attach this form to your return.

☐ We HAVE NOT approved your application. After considering the reasons stated in item 4, we cannot grant your request for an extension of time to file. We are not granting the 10-day grace period.

☐ We cannot consider your application because it was filed after the due date of the return for which an extension was requested.

☑ Other: _____

Extension granted until 02-15-01 By: _____ Date

Director

If you want a copy of this form to be returned to an address other than that shown above, please enter the address to which the copy should be sent.

Please Type or Print

Name

RICHARD A. EISNER & COMPANY, LLP

Number, street, and room or suite no. (or P.O. box no. if mail is not delivered to street address)

575 MADISON AVENUE

City, town or post office, state, and ZIP code. For a foreign address, see instructions.

NEW YORK NY 10022-2598

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

Note: The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No. 1545-0047

1998

This Form is Open to Public Inspection

A For the 1998 calendar year, OR tax year period beginning JULY 1, 1998, and ending JUNE 30, 1999

B Check if:
- ☐ Change of address
- ☐ Initial return
- ☐ Final return
- ☐ Amended return (required also for state reporting)

Please use IRS label or print or type. See Specific Instructions.

C Name of organization: PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Number and street (or P.O. box if mail is not delivered to street address): 810 SEVENTH AVENUE — Room/suite:

City or town, state or country, and ZIP+4: NEW YORK NY 10019

D Employer identification number: 13 1644147

E Telephone number: (212) 541-7800

F Check ▶ ☐ if exemption application is pending

G Type of organization— ▶ ☒ Exempt under section 501(c)(3) ◀ (insert number) OR ▶ ☐ section 4947(a)(1) nonexempt charitable trust

Note: Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).

H(a) Is this a group return filed for affiliates? ☐ Yes ☒ No

(b) If "Yes," enter the number of affiliates for which this return is filed. ▶

(c) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☒ No

I If either box in H is checked "Yes," enter four-digit group exemption number (GEN) ▶

J Accounting method: ☐ Cash ☒ Accrual ☐ Other (specify) ▶

K Check here ▶ ☐ if the organization's gross receipts are normally not more than $25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

Note: Form 990-EZ may be used by organizations with gross receipts less than $100,000 and total assets less than $250,000 at end of year.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 13.)

Revenue	1 Contributions, gifts, grants, and similar amounts received:			
	a Direct public support	1a	45093910	
	b Indirect public support	1b	5526433	
	c Government contributions (grants)	1c	378244	
	d Total (add lines 1a through 1c) (attach schedule of contributors) (cash $ 50,998,587 noncash $ 0) SCHEDULE - A	1d		50998587
	2 Program service revenue including government fees and contracts (from Part VII, line 93)	2		3152089
	3 Membership dues and assessments	3		
	4 Interest on savings and temporary cash investments	4		
	5 Dividends and interest from securities	5		833449
	6a Gross rents	6a		
	b Less: rental expenses	6b		
	c Net rental income or (loss) (subtract line 6b from line 6a)	6c		
	7 Other investment income (describe ▶)	7		
	8a Gross amount from sale of assets other than inventory — (A) Securities: 19184824; (B) Other:	8a		
	b Less: cost or other basis and sales expenses: 16992929	8b		
	c Gain or (loss) (attach schedule): 2191895	8c		
	d Net gain or (loss) (combine line 8c, columns (A) and (B)) SCHEDULE - B	8d		2191895
	9 Special events and activities (attach schedule)			
	a Gross revenue (not including $ ____ of contributions reported on line 1a)	9a		
	b Less: direct expenses other than fundraising expenses	9b		
	c Net income or (loss) from special events (subtract line 9b from line 9a)	9c		
	10a Gross sales of inventory, less returns and allowances	10a		
	b Less: cost of goods sold	10b		
	c Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)	10c		
	11 Other revenue (from Part VII, line 103) SCHEDULE - F - ROYALTY INCOME	11		26324
	12 Total revenue (add lines 1d, 2, 3, 4, 5, 8c, 7, 8d, 9c, 10c, and 11)	12		57208344
Expenses	13 Program services (from line 44, column (B))	13		28976512
	14 Management and general (from line 44, column (C))	14		5272396
	15 Fundraising (from line 44, column (D))	15		7259454
	16 Payments to affiliates (attach schedule)	16		0
	17 Total expenses (add lines 16 and 44, column (A))	17		41508362
Net Assets	18 Excess or (deficit) for the year (subtract line 17 from line 12)	18		15699982
	19 Net assets or fund balances at beginning of year (from line 73, column (A))	19		34971606
	20 Other changes in net assets or fund balances (attach explanation) SCHEDULE - D	20		(66775)
	21 Net assets or fund balances at end of year (combine lines 18, 19, and 20)	21		50604813

For Paperwork Reduction Act Notice, see page 1 of the separate instructions. Cat. No. 11282Y Form 990 (1998)

SCANNED MAR 13 2000

RECEIVED (C) MAR 2000

000143 12

#13-1644147

Form 990 (1998) PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. Page 2

Part II Statement of Functional Expenses

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See Specific Instructions on page 17.)

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.		(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22 Grants and allocations (attach schedule) (cash $ SCHEDULE - G noncash $ 0)	22				
23 Specific assistance to individuals (attach schedule)	23				
24 Benefits paid to or for members (attach schedule)	24				
25 Compensation of officers, directors, etc.	25				
26 Other salaries and wages	26				
27 Pension plan contributions	27				
28 Other employee benefits	28				
29 Payroll taxes	29				
30 Professional fundraising fees	30				
31 Accounting fees	31				
32 Legal fees	32				
33 Supplies	33				
34 Telephone	34				
35 Postage and shipping	35	SEE ATTACHED SCHEDULE - E			
36 Occupancy	36				
37 Equipment rental and maintenance	37				
38 Printing and publications	38				
39 Travel	39				
40 Conferences, conventions, and meetings	40				
41 Interest	41				
42 Depreciation, depletion, etc. (attach schedule)	42				
43 Other expenses (itemize): a SCHEDULE - N	43a				
b	43b				
c	43c				
d	43d				
e	43e				
44 Total functional expenses (add lines 22 through 43). Organizations completing columns (B)-(D), carry these totals to lines 13-15	44	41508362	28976512	5272396	7259454

Reporting of Joint Costs.—Did you report in column (B) (Program services) any joint costs from a combined educational campaign and fundraising solicitation? ▶ ☒ Yes ☐ No

If "Yes," enter (i) the aggregate amount of these joint costs $ 10061396; (ii) the amount allocated to Program services $ 9258011; (iii) the amount allocated to Management and general $ 0; and (iv) the amount allocated to Fundraising $ 803385

Part III Statement of Program Service Accomplishments (See Specific Instructions on page 20.)

What is the organization's primary exempt purpose? ▶ SEE ATTACHED PT. III, LINE 1 - PART C, II.

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

		Program Service Expenses (Required for 501(c)(3) and (4) orgs., and 4947(a)(1) trusts but optional for others.)
a	GRANTS & SERVICE TO AFFILIATES - USA IN THE FIELD OF FAMILY PLANNING (Grants and allocations $ 8988,722)	15,61,449
b	SERVICE TO THE FIELD OF FAMILY PLANNING (Grants and allocations $ 147,983)	9,606,132
c	INTERNATIONAL ASSISTANCE AND FAMILY PLANNING (Grants and allocations $ 1,119,796)	3758961
d	(Grants and allocations $)	
e	Other program services (attach schedule) (Grants and allocations $)	
f	Total of Program Service Expenses (should equal line 44, column (B), Program services) ▶	28,976,512

000144

Part IV Balance Sheets (See Specific Instructions on page 20.)

	Note: Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.			(A) Beginning of year		(B) End of year
Assets	45 Cash—non-interest-bearing			43874	45	473,651
	46 Savings and temporary cash investments			930,234	46	412,316
	47a Accounts receivable	47a	3,073,225			
	b Less: allowance for doubtful accounts	47b	0	2584393	47c	3073,225
	48a Pledges receivable	48a	7,864,496			
	b Less: allowance for doubtful accounts	48b	0	2,964,128	48c	7,864,496
	49 Grants receivable			164,951	49	318,194
	50 Receivables from officers, directors, trustees, and key employees (attach schedule)				50	
	51a Other notes and loans receivable (attach schedule)	51a				
	b Less: allowance for doubtful accounts	51b		0	51c	0
	52 Inventories for sale or use			3,304,066	52	4,835,234
	53 Prepaid expenses and deferred charges				53	
	54 Investments—securities (attach schedule)			35,177,732	54	46,580,150
	55a Investments—land, buildings, and equipment: basis	55a				
	b Less: accumulated depreciation (attach schedule)	55b			55c	
	56 Investments—other (attach schedule)				56	
	57a Land, buildings, and equipment: basis	57a	6,674,196			
	b Less: accumulated depreciation (attach schedule) SCHEDULE - F	57b	(4,470,711)	1,445,467	57c	2,203,435
	58 Other assets (describe ▶ BENEFICIAL INTEREST IN PERPETUAL TRUST)			3064856	58	3592,839
	59 Total assets (add lines 45 through 58) (must equal line 74)			49,649,701	59	69,353,540
Liabilities	60 Accounts payable and accrued expenses			7773,329	60	10,017,966
	61 Grants payable				61	
	62 Deferred revenue			697,505	62	592,992
	63 Loans from officers, directors, trustees, and key employees (attach schedule)				63	
	64a Tax-exempt bond liabilities (attach schedule)				64a	
	b Mortgages and other notes payable (attach schedule)				64b	
	65 Other liabilities (describe ▶ SCHEDULE - H)			6,837,261	65	8,743,769
	66 Total liabilities (add lines 60 through 65)			15,278,095	66	19,948,727
Net Assets or Fund Balances	Organizations that follow SFAS 117, check here ▶ [X] and complete lines 67 through 69 and lines 73 and 74.					
	67 Unrestricted			11417354	67	16,399,577
	68 Temporarily restricted			10,994,424	68	20,752,302
	69 Permanently restricted			11959,828	69	12,852,994
	Organizations that do not follow SFAS 117, check here ▶ [ ] and complete lines 70 through 74.					
	70 Capital stock, trust principal, or current funds				70	
	71 Paid-in or capital surplus, or land, building, and equipment fund				71	
	72 Retained earnings, endowment, accumulated income, or other funds				72	
	73 Total net assets or fund balances (add lines 67 through 69 OR lines 70 through 72; column (A) must equal line 19 and column (B) must equal line 21)			34,371,606	73	50,004,813
	74 Total liabilities and net assets / fund balances (add lines 66 and 73)			49,649,701	74	69,353,540

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

Part IV-A Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See Specific Instructions, page 22.)

a	Total revenue, gains, and other support per audited financial statements ▶	a	57,524,825
b	Amounts included on line a but not on line 12, Form 990:		
	(1) Net unrealized gains on investments $		
	(2) Donated services and use of facilities $ 408,952		
	(3) Recoveries of prior year grants $		
	(4) Other (specify): SCHEDULE-J $ 7,696		
	Add amounts on lines (1) through (4) ▶	b	416,648
c	Line a minus line b ▶	c	57,110,221
d	Amounts included on line 12, Form 990 but not on line a:		
	(1) Investment expenses not included on line 6b, Form 990 $		
	(2) Other (specify): REVENUE FOR AFFILIATE COUNCILS $ 98,123		
	Add amounts on lines (1) and (2) ▶	d	98123
e	Total revenue per line 12, Form 990 (line c plus line d) ▶	e	57,208,344

Part IV-B Reconciliation of Expenses per Audited Financial Statements with Expenses per Return

a	Total expenses and losses per audited financial statements ▶	a	44,809,054
b	Amounts included on line a but not on line 17, Form 990:		
	(1) Donated services and use of facilities $ 408,952		
	(2) Prior year adjustments reported on line 20, Form 990 $		
	(3) Losses reported on line 20, Form 990 $		
	(4) Other (specify): $		
	Add amounts on lines (1) through (4) ▶	b	408,952
c	Line a minus line b ▶	c	44,400,102
d	Amounts included on line 17, Form 990 but not on line a:		
	(1) Investment expenses not included on line 6b, Form 990 $		
	(2) Other (specify): EXPENSES FOR AFFILIATE COUNCILS $ 108,260		
	Add amounts on lines (1) and (2) ▶	d	108,260
e	Total expenses per line 17, Form 990 (line c plus line d) ▶	e	44,508,362

Part V List of Officers, Directors, Trustees, and Key Employees (List each one even if not compensated; see Specific Instructions on page 22.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (if not paid, enter -0-)	(D) Contributions to employee benefit plans & deferred compensation	(E) Expense account and other allowances
SEE ATTACHED SCHEDULE - I				

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than $100,000 from your organization and all related organizations, of which more than $10,000 was provided by the related organizations? ▶ [ ] Yes [X] No

If "Yes," attach schedule—see Specific Instructions on page 22.

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Part VI Other Information (See Specific instructions on page 23.)

			Yes	No
76	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity	76		X
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes.	77		X
78a	Did the organization have unrelated business gross income of $1,000 or more during the year covered by this return?	78a		X
b	If "Yes," has it filed a tax return on Form 990-T for this year?	78b		X
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement	79		X
80a	Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?	80a	X	
b	If "Yes," enter the name of the organization ▶ SCHEDULE-R and check whether it is ☒ exempt OR ☐ nonexempt.			
81a	Enter the amount of political expenditures, direct or indirect, as described in the instructions for line 81. 81a $ 0			
b	Did the organization file Form 1120-POL for this year?	81b		X
82a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?	82a	X	
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions for reporting in Part III.). 82b $ 408,952			
83a	Did the organization comply with the public inspection requirements for returns and exemption applications?	83a	X	
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	83b	X	
84a	Did the organization solicit any contributions or gifts that were not tax deductible?	84a		X
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	84b		N/A
85	*501(c)(4), (5), or (6) organizations.*—a Were substantially all dues nondeductible by members?	85a		N/A
b	Did the organization make only in-house lobbying expenditures of $2,000 or less? If "Yes" was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.	85b		N/A
c	Dues, assessments, and similar amounts from members 85c N/A			
d	Section 162(e) lobbying and political expenditures 85d N/A			
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices 85e N/A			
f	Taxable amount of lobbying and political expenditures (line 85d less 85e) 85f N/A			
g	Does the organization elect to pay the section 6033(e) tax on the amount in 85f?	85g		N/A
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount in 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?	85h		N/A
86	*501(c)(7) organizations.*—Enter: a Initiation fees and capital contributions included on line 12 86a N/A			
b	Gross receipts, included on line 12, for public use of club facilities 86b N/A			
87	*501(c)(12) organizations.*—Enter: a Gross income from members or shareholders 87a N/A			
b	Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.) 87b N/A			
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership? If "Yes," complete Part IX	88		N/A
89a	*501(c)(3) organizations.*—Enter: Amount of tax imposed on the organization during the year under: section 4911 ▶ N/A ; section 4912 ▶ N/A ; section 4955 ▶ N/A			
b	*501(c)(3) and 501(c)(4) organizations.*—Did the organization engage in any section 4958 excess benefit transaction during the year? If "Yes," attach a statement explaining each transaction	89b		X
c	Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958. ▶ $ 0			
d	Enter: Amount of tax on line 89c, above, reimbursed by the organization. ▶ $ 0			
90a	List the states with which a copy of this return is filed ▶ SCHEDULE-L			
b	Number of employees employed in the pay period that includes March 12, 1998 (See instructions.) 90b 196			
91	The books are in care of ▶ PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. Telephone no. ▶ (212) 541-7800 Located at ▶ 810 7th AVENUE, NEW YORK, NY ZIP + 4 ▶ 10019			
92	*Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041*—Check here ▶ ☐ and enter the amount of tax-exempt interest received or accrued during the tax year ▶ 92 N/A			

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Part VIII Analysis of Income-Producing Activities (See Specific instructions on page 27.)

Enter gross amounts unless otherwise indicated.	Unrelated business income (A) Business code	Unrelated business income (B) Amount	Excluded by section 512, 513, or 514 (C) Exclusion code	Excluded by section 512, 513, or 514 (D) Amount	(E) Related or exempt function income
93 Program service revenue:					
a SALES OF PUBLICATIONS					616952
b FEES FOR SERVICE TO AFFILIATES					2,534,137
c					
d					
e					
f Medicare/Medicaid payments					
g Fees and contracts from government agencies					
94 Membership dues and assessments					
95 Interest on savings and temporary cash investments			14	233449	
96 Dividends and interest from securities					
97 Net rental income or (loss) from real estate:					
a debt-financed property					
b not debt-financed property					
98 Net rental income or (loss) from personal property					
99 Other investment income			18	2191895	
100 Gain or (loss) from sales of assets other than inventory					
101 Net income or (loss) from special events					
102 Gross profit or (loss) from sales of inventory			15	26324	
103 Other revenue: a LIST RENTAL INCOME SCHEDULE-D					
b					
c					
d					
e					
104 Subtotal (add columns (B), (D), and (E))				3051668	3158089
105 Total (add line 104, columns (B), (D), and (E)) ▶ 6209757					

Note: *(Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I.)*

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See Specific Instructions on page 28)

Line No. ▼	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes).
93A	SALES & DISTRIBUTION OF EDUCATIONAL PUBLICATIONS IN THE FIELD OF FAMILY PLANNING.
93B	FEES FOR PROVIDING CONFERENCE TRAINING SESSIONS AND OTHER EDUCATIONAL AND TECHNICAL ASSISTANCE TO AFFILIATED ORGANIZATIONS.

Part IX Information Regarding Taxable Subsidiaries (Complete this Part if the "Yes" box on line 88 is checked.)

Name, address, and employer identification number of corporation or partnership	Percentage of ownership interest	Nature of business activities	Total income	End-of-year assets
	%	N/A		
	%			
	%			
	%			

[redacted] ...turns, including accompanying schedules and statements, and to the best of my knowledge ...parer (other than officer) is based on all information of which preparer has any knowledge.

SCHEDULE A (Form 990)

Department of the Treasury
Internal Revenue Service

Organization Exempt Under Section 501(c)(3)

(Except Private Foundations) and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) Nonexempt Charitable Trust

Supplementary Information

See separate instructions.

▶ Must be completed by the above organizations and attached to their Form 990 or 990-EZ.

OMB No. 1545-0047

1998

Name of the organization: PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Employer identification number: 13 | 1644147

Part I Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees (See instructions on page 1. List each one. If there are none, enter "None.")

(a) Name and address of each employee paid more than $50,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans & deferred compensation	(e) Expense account and other allowances
GLORIA FELDT 810 7TH AVE. NY NY 10019	PRESIDENT FULL TIME	$ 262,223	$ 14,687	$ 24,834
R. JAMES LEFEVRE, JR. 810 7TH AVE. NY NY 10019	CHIEF STRATEGIC OFFICER FULL TIME	$ 194,811	$ 11,688	$ 15,000
JAMES A. MINDAL 810 7TH AVE. NY NY 10019	VICE PRESIDENT DEVELOPMENT FULL TIME	$ 173,691	$ 9,884	0
MICHAEL BURNHILL 810 7TH AVE. NY NY 10019	VICE PRESIDENT MEDICAL PART TIME	$ 156,030	$ 9,346	0
JEFFREY D. MECHANIAK 810 7TH AVE.	VICE PRESIDENT BUSINESS SUPPLY SERVICES FULL TIME	$ 138,038	$ 8,282	0
Total number of other employees paid over $50,000 ▶	90			

Part II Compensation of the Five Highest Paid Independent Contractors for Professional Services (See instructions on page 1. List each one (whether individuals or firms). If there are none, enter "None.")

(a) Name and address of each independent contractor paid more than $50,000	(b) Type of service	(c) Compensation
FACTOR DIRECT Mail. 1900 AVE. OF THE STARS, SUITE 230, LA CA 90067	FUND RAISING TELEMARKETING	$ 1,230,845
SMARR MAILING SERVICES 6232 JEFFERSON DAVIS Hwy. FREDERICKSBURG, VA 22565	MAILING HOUSE	$ 957,423
ATOMIC VISION, INC. 884 FOLSOM ST. SF CA 94107	TEEN WEBSITE CONSULTING	$ 799,930
MALCHOW, ADAMS & HOSEY 1400 1st NW. SUITE 650, WA D.C. 20005	FUND RAISING CONSULTANTS	$ 574,636
KCMS 3457 EAST WEST HWY. HYATTSVILLE, MD 20782	MAILING HOUSE	$ 549,917
Total number of others receiving over $50,000 for professional services ▶	37	

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Schedule A (Form 990 1988) PLANNED PARENTHOOD FEDERATION OF AMERICA Inc. Page 2

Part III Statements About Activities

		Yes	No
1	During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities ▶ $ 339,657 Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes," must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities.	1	X	
2	During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any of its trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary:			
a	Sale, exchange, or leasing of property?	2a		X
b	Lending of money or other extension of credit?	2b		X
c	Furnishing of goods, services, or facilities?	2c		X
d	Payment of compensation (or payment or reimbursement of expenses if more than $1,000)?	2d	X	
e	Transfer of any part of its income or assets? If the answer to any question is "Yes," attach a detailed statement explaining the transactions.	2e		X
3	Does the organization make grants for scholarships, fellowships, student loans, etc.?	3		X
4a	Do you have a section 403(b) annuity plan for your employees?	4a	X	
b	Attach a statement to explain how the organization determines that individuals or organizations receiving grants or loans from it in furtherance of its charitable programs qualify to receive payments. (See instructions on page 2.)			

Part IV Reason for Non-Private Foundation Status (See instructions on pages 2 through 4.)

The organization is not a private foundation because it is: (Please check only ONE applicable box.)

6 ☐ A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
6 ☐ A school. Section 170(b)(1)(A)(ii). (Also complete Part V, page 4.)
7 ☐ A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
8 ☐ A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(v).
9 ☐ A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state ▶ .....
10 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the Support Schedule in Part IV-A.)
11a ☒ An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
11b ☐ A community trust. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
12 ☐ An organization that normally receives: (1) more than 33⅓% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions—subject to certain exceptions, and (2) no more than 33⅓% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Also complete the Support Schedule in Part IV-A.)
13 ☐ An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in: (1) lines 5 through 12 above; or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See instructions on page 4.) N/A

(a) Name(s) of supported organization(s)	(b) Line number from above

14 ☐ An organization organized and operated to test for public safety. Section 509(a)(4). (See instructions on page 4.)

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Schedule A (Form 990) 1998 PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. Page 3

Part IV-A Support Schedule (Complete only if you checked a box on line 10, 11, or 12.) *Use cash method of accounting.*
Note: You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Calendar year (or fiscal year beginning in) ▶	(a) 1997	(b) 1996	(c) 1995	(d) 1994	(e) Total
15 Gifts, grants, and contributions received. (Do not include unusual grants. See line 28.)	32,963,207	27,303,677	27,568,692	26,992,245	114,828,821
16 Membership fees received	4976,136	4823,648	4865,617	4941,810	19,607,206
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is not a business unrelated to the organization's charitable, etc., purpose	8292,680	8,133,951	7369,386	7097,199	30,887,216
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975	711,013	700,909	622,221	574,938	2,609,081
19 Net income from unrelated business activities not included in line 18	0	0	0	0	
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf	0	0	0	0	
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge	0	0	0	0	
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets	0	0	0	0	
23 Total of lines 15 through 22	46,943,036	40,962,180	40,419,916	39,607,192	167,932,324
24 Line 23 minus line 17	38,650,356	32,828,229	33,050,530	32,509,993	137,045,108
25 Enter 1% of line 23	469,430	409,622	404,199	396,072	

26 Organizations described on lines 10 or 11: a Enter 2% of amount in column (e), line 24 ▶	26a	2,740,902
b Attach a list (which is not open to public inspection) showing the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 1994 through 1997 exceeded the amount shown in line 26a. Enter the sum of all these excess amounts. ▶ SCHEDULE-O	26b	1474098
c Total support for section 509(a)(1) test: Enter line 24, column (e) ▶	26c	137045108
d Add: Amounts from column (e) for lines: 18 2,609,081 16 0 22 0 26b 1474098 ▶	26d	4083179
e Public support (line 26c minus line 26d total) ▶	26e	132,961,929
f Public support percentage (line 26e (numerator) divided by line 26c (denominator)) ▶	26f	97.02 %

27 Organizations described on line 12: a For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," attach a list to show the name of, and total amounts received in each year from, each "disqualified person." Enter the sum of such amounts for each year: N/A

(1997) ..... (1996) ..... (1995) ..... (1994) .....

b For any amount included in line 17 that was received from a nondisqualified person, attach a list to show the name of, and amount received for each year, that was more than the larger of (1) the amount on line 25 for the year or (2) $5,000. (Include in the list organizations described in lines 5 through 11, as well as individuals.) After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year:

(1997) ..... (1996) ..... (1995) ..... (1994) .....

c Add: Amounts from column (e) for lines: 15 ____ 16 ____ 17 ____ 20 ____ 21 ____ ▶	27c	
d Add: Line 27a total ____ and line 27b total ____ ▶	27d	
e Public support (line 27c total minus line 27d total) ▶	27e	
f Total support for section 509(a)(2) test: Enter amount on line 23, column (e) ▶ 27f		
g Public support percentage (line 27e (numerator) divided by line 27f (denominator)) ▶	27g	%
h Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator)) ▶	27h	%

28 Unusual Grants: For an organization described in line 10, 11, or 12 that received any unusual grants during 1994 through 1997, attach a list (which is not open to public inspection) for each year showing the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not include these grants in line 15. (See instructions on page 4.) NONE

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Part V Private School Questionnaire (See instructions on page 4.)
(To be completed ONLY by schools that checked the box on line 6 in Part IV) N/A

		Yes	No
29	Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, other governing instrument, or in a resolution of its governing body?	29	
30	Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?	30	
31	Has the organization publicized its racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves?	31	
	If "Yes," please describe; if "No," please explain. (If you need more space, attach a separate statement.)		
32	Does the organization maintain the following:		
a	Records indicating the racial composition of the student body, faculty, and administrative staff?	32a	
b	Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?	32b	
c	Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?	32c	
d	Copies of all material used by the organization or on its behalf to solicit contributions?	32d	
	If you answered "No" to any of the above, please explain. (If you need more space, attach a separate statement.)		
33	Does the organization discriminate by race in any way with respect to:		
a	Students' rights or privileges?	33a	
b	Admissions policies?	33b	
c	Employment of faculty or administrative staff?	33c	
d	Scholarships or other financial assistance?	33d	
e	Educational policies?	33e	
f	Use of facilities?	33f	
g	Athletic programs?	33g	
h	Other extracurricular activities?	33h	
	If you answered "Yes" to any of the above, please explain. (If you need more space, attach a separate statement.)		
34a	Does the organization receive any financial aid or assistance from a governmental agency?	34a	
b	Has the organization's right to such aid ever been revoked or suspended? If you answered "Yes" to either 34a or b, please explain using an attached statement.	34b	
35	Does the organization certify that it has complied with the applicable requirements of sections 4.01 through 4.05 of Rev. Proc. 75-50, 1975-2 C.B. 587, covering racial nondiscrimination? If "No," attach an explanation	35	

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Schedule A (Form 990) 1998 PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. Page 5

Part VI-A Lobbying Expenditures by Electing Public Charities (See instructions on page 6.)
(To be completed ONLY by an eligible organization that filed Form 5768)

Check here ▶ a ☐ If the organization belongs to an affiliated group.
Check here ▶ b ☐ If you checked "a" above and "limited control" provisions apply.

Limits on Lobbying Expenditures (The term "expenditures" means amounts paid or incurred.)		(a) Affiliated group totals	(b) To be completed for ALL electing organizations
36 Total lobbying expenditures to influence public opinion (grassroots lobbying)	36		128,099
37 Total lobbying expenditures to influence a legislative body (direct lobbying)	37		211,558
38 Total lobbying expenditures (add lines 36 and 37)	38		339657
39 Other exempt purpose expenditures	39		4168705
40 Total exempt purpose expenditures (add lines 38 and 39)	40		4508,362
41 Lobbying nontaxable amount. Enter the amount from the following table— If the amount on line 40 is— / The lobbying nontaxable amount is— Not over $500,000 — 20% of the amount on line 40. Over $500,000 but not over $1,000,000 — $100,000 plus 15% of the excess over $500,000 Over $1,000,000 but not over $1,500,000 — $175,000 plus 10% of the excess over $1,000,000 Over $1,500,000 but not over $17,000,000 — $225,000 plus 5% of the excess over $1,500,000 Over $17,000,000 — $1,000,000	41		1,000,000
42 Grassroots nontaxable amount (enter 25% of line 41)	42		250,000
43 Subtract line 42 from line 36. Enter -0- if line 42 is more than line 36	43		0
44 Subtract line 41 from line 38. Enter -0- if line 41 is more than line 38	44		0

Caution: If there is an amount on either line 43 or line 44, you must file Form 4720.

4-Year Averaging Period Under Section 501(h)

(Some organizations that made a section 501(h) election do not have to complete all of the five columns below. See the instructions for lines 45 through 50 on page 7.)

Calendar year (or fiscal year beginning in) ▶	Lobbying Expenditures During 4-Year Averaging Period (a) 1996	(b) 1997	(c) 1998	(d) 1999	(e) Total
45 Lobbying nontaxable amount	1,000,000	1,000,000	1,000,000	1,000,000	5,000,000
46 Lobbying ceiling amount (150% of line 45(e))					7,500,000
47 Total lobbying expenditures	339657	190,612	334,728	119,944	984,941
48 Grassroots nontaxable amount	250,000	250,000	250,000	250,000	1,000,000
49 Grassroots ceiling amount (150% of line 48(e))					1,500,000
50 Grassroots lobbying expenditures	128,099	13,248	226,434	11,104	378,885

Part VI-B Lobbying Activity by Nonelecting Public Charities
(For reporting only by organizations that did not complete Part VI-A) (See instructions on page 8.) N/A

During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of:	Yes	No	Amount
a Volunteers			
b Paid staff or management (include compensation in expenses reported on lines c through h)			
c Media advertisements			
d Mailings to members, legislators, or the public			
e Publications, or published or broadcast statements			
f Grants to other organizations for lobbying purposes			
g Direct contact with legislators, their staffs, government officials, or a legislative body			
h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means			
i Total lobbying expenditures (add lines c through h)			

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities.

#13-1644147

Schedule A (Form 990) 1998 PLANNED PARENTHOOD FEDERATION OF AMERICA INC. Page 6

Part VII Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations

51 Did the reporting organization directly or indirectly engage in any of the following with any other organization described in section 501(c) of the Code (other than section 501(c)(3) organizations) or in section 527, relating to political organizations?

		Yes	No
a	Transfers from the reporting organization to a noncharitable exempt organization of:		
	(i) Cash	51a(i)		X
	(ii) Other assets	a(ii)		X
b	Other transactions:		
	(i) Sales of assets to a noncharitable exempt organization	b(i)		X
	(ii) Purcheses of assets from a noncharitable exempt organization	b(ii)		X
	(iii) Rental of facilities or equipment	b(iii)		X
	(iv) Reimbursement arrangements	b(iv)		X
	(v) Loans or loan guarantees	b(v)		X
	(vi) Performance of services or membership or fundraising solicitations	b(vi)	X	
c	Sharing of facilities, equipment, mailing lists, other assets, or paid employees	c	X	

d If the answer to any of the above is "Yes," complete the following schedule. Column (b) should always show the fair market value of the goods, other assets, or services given by the reporting organization. If the organization received less than fair market value in any transaction or sharing arrangement, show in column (d) the value of the goods, other assets, or services received:

(a) Line no.	(b) Amount involved	(c) Name of noncharitable exempt organization	(d) Description of transfers, transactions, and sharing arrangements
51 (b) VI	$ 18,000	PLANNED PARENTHOOD ACTION FUND, INC.	ADMINISTRATIVE COST

52a Is the organization directly or indirectly affiliated with, or related to, one or more tax-exempt organizations described in section 501(c) of the Code (other than section 501(c)(3)) or in section 527? ▶ ☒ Yes ☐ No

b If "Yes," complete the following schedule:

(a) Name of organization	(b) Type of organization	(c) Description of relationship
PLANNED PARENTHOOD ACTION FUND, INC.	501 (C) (4)	OVERLAPPING BOARD of DIRECTORS

[000155]

KPMG
345 Park Avenue
New York, NY 10154

Independent Auditors' Report

The Membership and the Board of Directors
Planned Parenthood Federation of America, Inc.:

We have audited the accompanying consolidated balance sheets of Planned Parenthood Federation of America, Inc. as of June 30, 1999 and 1998, and the related consolidated statements of cash flows for the years then ended and the consolidated statements of activities and functional expenses for the year ended June 30, 1999. Those consolidated financial statements are the responsibility of the Federation's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial

position of Planned Parenthood Federation of America, Inc. as of June 30, 1999 and 1998, and its cash flows for the years then ended and the changes in its net assets for the year ended June 30, 1999, in conformity with generally accepted accounting principles.

Our audits were made for the purpose of forming an opinion on the consolidated financial statements of Planned Parenthood Federation of America, Inc. taken as a whole. The consolidating information included in Schedules 1 through 4 is presented for purposes of additional analysis of the consolidated financial statements rather than to present the financial position and changes in net assets of the individual organizations. The consolidating information has been subjected to the auditing procedures applied in the audit of the 1999 consolidated financial statements and, in our opinion, is fairly stated in all material respects in relation to the consolidated financial statements taken as a whole.

October 22, 1999

KPMG LLP

FOLDOUT EXHIBITS

[000156-000160]

PPFA Consolidated Balance Sheets

PPFA Consolidated Statement of Activities

PPFA Consolidated Statement of Functional Expenses

PPFA Consolidated Statements of Cash Flows

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.

Consolidated Balance Sheets

June 30, 1999 and 1998

Assets		1999	1998
Cash	$	1,258,170	1,096,821
Investments held for current operations (note 3)		17,526,004	12,671,149
Receivables, advances and deposits:			
Affiliates		1,590,218	1,739,898
Other (note 14)		1,159,669	764,495
Contributions and grants receivable, net (note 4)		8,183,090	3,180,892
Inventories, supplies and prepaid expenses (note 11)		4,925,093	4,810,183
Investments held for long-term purposes (note 3)		29,119,967	23,427,084
Beneficial interest in perpetual trust (note 5)		3,592,839	3,064,856
Property and equipment, net (note 6)		2,203,435	1,445,467
Total assets	$	69,558,485	52,200,845
Liabilities and Net Assets			
Accounts payable and accrued expenses (note 11)	$	10,330,681	9,637,673
Payables to related organizations (note 7)		2,421,445	2,826,052
Deferred revenue		592,992	697,505
Liability under split-interest agreements (note 5)		4,508,942	3,159,453
Amounts held on behalf of affiliates and others		1,704,563	820,868
Total liabilities		19,558,623	17,141,551
Commitments (note 8)			
Net assets:			
Unrestricted:			
Undesignated, available for general activities		5,540,393	4,231,514
Designated by the Board of Directors (note 12):			
For operating activities		204,032	72,054
For long-term investment		8,345,859	5,552,364
Net investment in property and equipment		2,203,435	1,445,467
The Planned Parenthood Foundation		167,144	140,242
		16,460,863	11,441,641
Temporarily restricted (note 13):			
For operating activities (note 2)		16,324,575	7,678,687
For long-term investment		4,427,727	3,315,737
Planned Parenthood Action Fund, Inc.		(144,379)	585,259
		20,607,923	11,579,683
Permanently restricted (notes 2 and 13)		12,931,076	12,037,970
Total net assets		49,999,862	35,059,294
Total liabilities and net assets	$	69,558,485	52,200,845

See accompanying notes to consolidated financial statements.

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PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Consolidated Statement of Activities

Year ended June 30, 1999
(with comparative totals for
the year ended June 30, 1998)

	Unrestricted	Temporarily restricted	Permanently restricted	Total 1999	Total 1998
Revenue, gains and other support:					
Revenue and gains:					
Contributions and grants:					
Direct response	$ 20,120,775	2,643,382	—	22,764,157	20,317,923
Major donors, foundations and corporations (net of $1,400,000 designated by grantors for specified affiliates in 1999)	4,013,656	15,485,620	33,650	19,532,926	10,934,928
Bequests	4,432,823	650,000	301,294	5,384,117	3,067,544
Donated services and commodities	185,150	223,802	—	408,952	57,079
Affiliates, principally National Program Support	5,000,174	—	30,179	5,030,353	4,838,820
Federated fund-raising organizations	225,338	403,374	—	628,712	626,329
Governmental grants	—	378,244	—	378,244	594,949
Total contributions and grants	33,977,916	19,784,422	365,123	54,127,461	40,427,572
Other revenue and gains (losses):					
Sales of publications and commodities	616,952	—	—	616,952	747,544
Interest and dividends	710,870	139,201	—	850,071	677,633
Net appreciation in fair value of investments	566,792	1,635,234	—	2,202,026	3,541,619
Gain on beneficial interest in perpetual trust	—	—	527,983	527,983	502,702
Change in value of split-interest agreements	(712,723)	192,436	—	(520,287)	477,797
Fees for services to affiliates and others	2,553,061	—	—	2,553,061	2,525,832
Total other revenue and gains	3,734,952	1,966,871	527,983	6,229,806	8,473,127
Net assets released from restrictions:					
Satisfaction of restrictions	12,586,878	(12,586,878)	—	—	—
Recovery of program administrative costs	61,664	(61,664)	—	—	—
Total net assets released from restrictions	12,648,542	(12,648,542)	—	—	—
Total revenue, gains and other support, carried forward	50,361,410	9,102,751	893,106	60,357,267	48,910,699

C00157

(Continued)

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Consolidated Statement of Activities

Year ended June 30, 1999
(with comparative totals for
the year ended June 30, 1998)

	Unrestricted	Temporarily restricted	Permanently restricted	Total 1999	Total 1998
Total revenue, gains and other support, brought forward	$ 50,361,410	9,102,751	893,106	60,357,267	48,910,699
Expenses (note 10):					
Program services:					
Grants and service to affiliates - USA	16,207,229	—	—	16,207,229	17,433,921
Service to the field of family planning	11,520,870	—	—	11,520,870	8,420,259
International assistance - family planning	3,758,961	—	—	3,758,961	3,523,424
Total program services	31,487,060	—	—	31,487,060	29,377,604
Supporting services:					
Management and general	5,451,200	—	—	5,451,200	4,831,508
Fund-raising	8,403,928	—	—	8,403,928	6,797,751
Total supporting services	13,855,128	—	—	13,855,128	11,629,259
Total expenses	45,342,188	—	—	45,342,188	41,006,863
Excess of revenue, gains and other support over expenses	5,019,222	9,102,751	893,106	15,015,079	7,903,836
Other change in net assets - refunds to donors	—	(74,511)	—	(74,511)	(136,197)
Increase in net assets	5,019,222	9,028,240	893,106	14,940,568	7,767,639
Net assets at beginning of year	11,441,641	11,579,683	12,037,970	35,059,294	27,291,655
Net assets at end of year	$ 16,460,863	20,607,923	12,931,076	49,999,862	35,059,294

See accompanying notes to consolidated financial statements.

C001158

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Consolidated Statement of Functional Expenses

Year ended June 30, 1999
(with comparative totals for the year ended June 30, 1998)

	1999						
	Program services			Supporting services		Total expenses	
	Grants and service to affiliates - USA	Service to the field of family planning	International assistance - family planning	Management and general	Fund-raising	1999	1998
Salaries, payroll taxes, etc.	$ 5,803,532	3,123,918	1,185,805	2,278,270	1,179,962	13,571,487	12,066,365
Employee health and retirement benefits	553,281	289,545	121,284	231,683	118,693	1,314,486	1,190,507
Total employee compensation	6,356,813	3,413,463	1,307,089	2,509,953	1,298,655	14,885,973	13,256,872
Professional fees and contract service payments	1,757,940	2,639,980	81,541	834,152	2,485,325	7,798,938	7,172,395
Supplies	195,933	78,365	21,152	57,613	23,022	376,085	373,294
Shipments of commodities and supplies	263,846	—	391,912	—	—	655,758	565,489
Telephone	369,382	104,330	41,749	87,039	45,949	648,449	593,942
Postage and shipping	564,668	1,922,120	52,969	61,701	3,072,226	5,673,684	4,463,886
Occupancy	525,893	486,154	295,219	776,185	422,891	2,506,342	2,773,781
Outside printing, artwork, etc.	341,331	553,473	28,281	74,071	667,942	1,665,098	1,184,014
Advertising and public service messages	190,016	744,533	230	3,362	10,806	948,947	368,479
Conferences, meetings, travel and subsistence	1,565,898	730,638	318,231	400,183	125,248	3,140,198	2,892,659
Subscriptions and reference publications	125,185	89,732	2,019	28,070	3,975	248,981	225,507
Awards and grants	3,125,322	524,455	1,113,796	7,975	22,212	4,793,760	5,699,778
Repairs and maintenance	397,907	43,209	1,767	21,606	7,480	471,969	462,312
Staff development/training	41,081	14,439	3,910	124,314	14,233	197,977	45,706
Interest, bank and lockbox fees	157	—	5,487	248,066	36,511	290,221	260,604
Amortization and depreciation	118,718	102,569	36,968	109,031	63,709	430,995	433,321
Miscellaneous	267,139	73,410	56,641	107,879	103,744	608,813	233,824
Total expenses	$ 16,207,229	11,520,870	3,758,961	5,451,200	8,403,928	45,342,188	41,006,863

See accompanying notes to consolidated financial statements.

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PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.

Consolidated Statements of Cash Flows

Years ended June 30, 1999 and 1998

	1999	1998
Cash flows from operating activities:		
Increase in net assets	$ 14,940,568	7,767,639
Adjustments to reconcile increase in net assets to net cash provided by operating activities:		
Amortization and depreciation	430,995	433,321
Net appreciation in fair value of investments	(2,202,026)	(3,541,619)
Contributions for endowment and trust funds	(568,688)	(534,896)
Change in value of split-interest agreements	520,287	(477,797)
Gain on beneficial interest in perpetual trust	(527,983)	(502,702)
(Increase) decrease in receivables, advances and deposits	(245,494)	39,719
Increase in contributions and grants receivable	(5,002,198)	(1,192,485)
Increase in inventories, supplies and prepaid expenses	(114,910)	(2,401,433)
Increase in accounts payable and accrued expenses	693,008	3,732,422
(Decrease) increase in payables to related organizations	(404,607)	639,945
(Decrease) increase in deferred revenue	(104,513)	7,296
Increase (decrease) in amounts held on behalf of affiliates and others	883,695	(17,533)
Net cash provided by operating activities	8,298,134	3,951,877
Cash flows from investing activities:		
Purchases of investments	(27,530,536)	(20,245,135)
Proceeds from sale of investments	19,184,824	14,745,098
Purchases of property and equipment	(1,188,964)	(406,603)
Net cash used in investing activities	(9,534,676)	(5,906,640)
Cash flows from financing activities:		
Contributions for endowment and trust funds	568,688	534,896
Proceeds of new gift annuities and charitable remainder trusts gift in excess of amounts recognized as contributions	1,033,568	583,550
Investment return and payments to beneficiaries of split-interest agreements, net	(204,365)	537,241
Net cash provided by financing activities	1,397,891	1,655,687
Net increase (decrease) in cash	161,349	(299,076)
Cash at beginning of year	1,096,821	1,395,897
Cash at end of year	$ 1,258,170	1,096,821

See accompanying notes to consolidated financial statements.

[000161]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Notes to Consolidated Financial Statements

June 30, 1999 and 1998

(1) Mission, Organizational Structure and Summary of Significant Accounting Policies

Planned Parenthood Mission Statement: A Reason for Being

Planned Parenthood believes in the fundamental right of each individual, throughout the world, to manage his or her fertility, regardless of the individual's income, marital status, race, ethnicity, sexual orientation, age, national origin or residence. We believe that respect and value for diversity in all aspects of our organization are essential to our well-being. We believe that reproductive self-determination must be voluntary and preserve the individual's right to privacy. We further believe that such self-determination wll contribute to an enhancement of the quality of life, strong family relationships and population stability.

Based on these beliefs, and reflecting the diverse communities within which we operate, the mission of Planned Parenthood is:

- to provide comprehensive reproductive and complementary health care services in settings which preserve and protect the essential privacy and rights of each individual;

- to advocate public policies which guarantee these rights and ensure access to such services;

- to provide educational programs which enhance understanding of individual and societal implications of human sexuality;

- to promote research, and the advancement of technology in reproductive health care and encourage understanding of their inherent bioethical, behavioral and social implications.

Organizational Structure

Planned Parenthood Federation of America, Inc. (the Federation) is the nation's oldest and largest voluntary family planning organization. The Federation maintains a national office in New York City, three domestic regional offices, a Washington, D.C. office and four international offices that monitor the Family Planning International Assistance Program. The Federation is affiliated with 132 independent medical and educational organizations and related entities, all of which are separately incorporated in their respective states and which collectively constitute the Federation's membership. The accompanying consolidated financial statements do not include the financial position, changes in net assets and cash flows of these independent affiliated organizations. The financial position, results of operations and cash flows of Planned Protection Insurance Company, Limited, a separately incorporated organization discussed in note 11, the capital stock of which is held in trust by the Federation on hehalf of insured affiliates, are also excluded from the accompanying consolidated financial statements.

(Continued)

[000162]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Notes to Consolidated Financial Statements

June 30, 1999 and 1998

The Federation's consolidated financial statements include the financial position, changes in net assets and cash flows of The Planned Parenthood Foundation (the Foundation) and Planned Parenthood Action Fund, Inc. (PPAF). The Foundation was incorporated in 1994 for the purpose of raising funds and making grants to the Federation and its affiliates. PPAF was incorporated in 1989 to encourage and protect informed individual choice regarding reproductive health care, advocate public policies which guarantee the right to choice and full and nondiscriminatory access to reproductive health care, and foster and preserve a social and political climate favorable to the exercise of reproductive choice.

The Federation and the Foundation are not-for-profit organizations exempt from U.S. Federal income taxes under Section 501(c)(3) of the Internal Revenue Code and have been designated as organizations which are not private foundations. PPAF is a not-for-profit organization exempt from Federal income taxes under Section 501(c)(4) of the Internal Revenue Code.

The Federation incurs program service expenses for the following:

Grants and service to affiliates - USA - domestic-centered programs designed to assist the Federation's

affiliates in their efforts to provide outstanding service to the patients and communities they serve.

Service to the field of family planning - domestic-centered programs designed to ensure the Federation's leadership in serving the entire field of family planning and reproductive choice, including advocacy, medical services and education.

International assistance- family planning - programs designed to advance the reproductive health and rights of women and their families outside of the United States.

Summary of Significant Accounting Policies

(a) Basis of Presentation

The accompanying consolidated financial statements have been prepared on the accrual basis of accounting. The Federation's net assets and revenues, expenses, gains and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, the consolidated net assets of the Federation and changes therein are classified and reported as follows:

Unrestricted net assets - Net assets that are not subject to donor-imposed stipulations.

Temporarily restricted net assets - Net assets subject to donor-imposed stipulations that will be met either by actions of the Federation and/or the passage of time.

Permanently restricted net assets - Net assets subject to donor-imposed stipulations that they be maintained permanently by the Federation. Generally, the donors of these assets permit the Federation to use all or part of the income earned on related investments for general or specific purposes.

[000163]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Notes to Consolidated Financial Statements

June 30, 1999 and 1998

Revenues ate reported as increases in unrestricted net assets unless their use is limited by donor-imposed restrictions. Expenses are reported as decreases in unrestricted net assets. Gains and losses on investments and other assets or liabilities are reported as increases or decreases in unrestricted net assets unless their use is restricted by explicit donor stipulation or by law. Expirations of temporary restrictions on net assets (i.e., the donor-stipulated purpose has been fulfilled and/or the stipulated time period has elapsed) are reported as net assets released from restrictions.

(b) Contributions

Contributions, which include unconditional promises to give, are recognized as revenue in the period received at their net present value, discounted at a risk-free rate.

(c) Investments

Investments in equity securities with readily determinable fair values and all debt securities are carried at fair value based upon quoted market prices.

(d) Inventories

Inventories are valued at the lower of cost or market, on a first-in, first-out basis. Fixed Assets

(e) Fixed Assets

Leasehold improvements and equipment are reflected in the accompanying consolidated balance sheets at cost. Amortization and depredation are recorded on the straight-fine method over the estimated useful lives of the assets or the life of the lease, whichever is shorter.

(f) Accounting Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and judgments that affect the reported amounts of assets and liabilities and disclosures of contingencies at the date of the financial statements and revenues and expenses recognized during the reporting period. Actual results could differ from those estimates.

(g) Comparative Financial Information

The consolidated financial statements include certain 1998 comparative information. With respect to the consolidated statement of activities, such prior year information is not presented by net asset class and, in the consolidated statement

of functional expenses, 1998 expenses by object are presented in total rather than by functional category. Accordingly, such information should be read in conjunction with the Federation's 1998 consolidated financial statements from which the summarized information was derived.

[000164]

(h) Reclassifications

Certain 1998 amounts have been reclassified to conform with 1999 presentation.

Other significant accounting policies are set forth in the consolidated financial statements and the following notes.

(2) Fund for the Future

The Fund for the Future was established in 1990 to help provide for the long-term development of the Federation's affiliates. Resources are provided by the Federation, as well as affiliates and the general public. Investment returns are used to fund development grants to affiliates and incidental fund raising and administrative costs. At June 30, 1999 and 1998, the balance in the Fund for the Future was as follows:

		1999	1998
Unrestricted - designated	$	2,759,832	2,675,856
Temporarily restricted		1,648,356	1,384,821
Permanently restricted		2,995,952	2,932,403
	$	7,404,140	6,993,080

(3) Investments

The fair value of the Federation's investments at June 30, 1999 and 1998 is summarized as follows:

		1999	1998
Cash and liquid investment funds	$	2,704,869	4,499,085
U.S. Government obligations		18,84546	11,147,680
Common and preferred stock		18,876,450	14,233,876
Municipal bonds		388,115	235,288
Corporate bonds		5,239,224	5,898,210
Other		591,767	84,094
	$	46,645,971	36,098,233

Investments include split-interest gifts of $8,269,837 and $6,447,598 in 1999 and 1998, respectively. Such split-interest gifts include certain segregated investment accounts relating to charitable gift annuities in compliance with the insurance laws of various states. The balance of these accounts aggregated $3,303,843 and $2,898,603 at June 30, 1999 and 1998, respectively.

[000165]

(4) Contributions and Grants Receivable

Contributions and grants receivable consist of the following at June,30, 1999 and 1998:

		1999	1998
Contributions and grants:			
Receivable in:			
Less than one year	$	5,594,101	2,108,571
One to five years		3,391,655	1,342,307
		8,985,756	3,450,878
Less discount to present value		(777,666)	(269,986)
	$	8,208,090	3,180,892

(5) Split-Interest Agreements and Perpetual Trust

The Federation's split-interest agreements with donors consist prima.rily of charitable gift annuities, pooled life income funds and charitable remainder trusts for which the Federation serves as trustee. Split-interest related contribution revenue is recognized at the date the assets are received after recording 1labilities for either (i) the present value of the estimated future payments to be made to the donors and/or other beneficiaries or (ii) the discount to present value for a term equal to the life expectancy of the donor for pooled life income fund gifts. These liabilities are adjusted annually for changes in the value of the assets, accretion of the discount and other changes in the estimates of future benefits. The Federation is also the beneficiary of a perpetual trust held and administered by a third party.

(6) Property and Equipment

Property and equipment consist of the following at June 30, 1999 and 1998:

		1999	1998
Construction in progress (note 14)	$	214,894	
Leasehold improvements		487,765	487,765
Equipment		5,971,487	4,997,602
		6,674,146	5,485,367
Less accumulated amortization and depreciation		(4,470,711)	(4,039,900)
	$	2,203,435	1,445,467

[000166]

(7) Payables to Related Organizations

Payables to related organizations primarily consist of amounts owed to affiliates in connection with the Federation's contribution sharing arrangement (rebates). In addition, during fiscal 1998, the Federation agreed to continue to provide, through fiscal year 2001, general support to the Alan Guttmacher Institute (AGI), an independent, nonprofit corporation for research, policy analysis and public education on reproductive health issues, and a special afffiliate of the Federation. Payments to AGI are expected to be made as follows:

Year ending June 30		Amount
2000	$	351,281
2001		361,818
		713,099
Less discount to Present Value		(108,178)
	$	604,921

(8) Lease Commitments

The Federation's noncancelable operating lease for its office facilities at 810 Seventh Avenue, New York, New York expires February 28, 2003. The Federation also has a number of lease commitments for regional offices expiring through 2005.

The following is a schedule of the minimum future rentals on these leases at June 30, 1999:

Year ending June 30		Amount
2000	$	2,640,000
2001		2,661,000
2002		2,783,000
2003		2,062,000
2004		271,000
Thereafter		50,000
Total future minimum rentals	$	10,467,000

Rent expense for the year ended June 30, 1999 was approximately $2,545,000 ($2,655,000 for the year ended June 30, 1998).

[000167]

(9) Pension Plan

The Federation has a defined contribution pension plan covering all full-time employees who have completed two years of service and who are age 21 or older. The Federation makes contributions to the plan on behalf of each participant in an amount equal to 3% of the employee's compensation. In addition, the Federation makes matching contributions of $.50

for every $1 of employee contributions up to 6% of cash compensation. The employee contributions are made to a separate tax deferred annuity 403(b) plan. Participants are fully vested upon oligibility, and all contributions are nonforfcitable.

Pension expense was approximately $437,000 for the year ended June 30, 1999 ($399,000 for the year ended June 30, 1998).

(10) Allocation of Joint Costs

During the years ended June 30, 1999 and 1998, the Federation incurred joint costs for informational materials and activities that included fund-raising appeals that were allocated as follows:

		1999	1998
Fund-raising	$	5,803,384	5,162,125
Grants and service to affiliates - USA		828,218	844,940
Service to the field of family planning	$	10,061,396	8,821,620

(11) National Insurance Program

The Federation has estabfished and administers in coordination with a council representative of the Federation's board and affiliates, a program of insurance, self-insurance and risk management for the Federation and its affiliates (the National Insurance Program or the Insurance Program). The Insurance Program obtains insurance against medical professional liability, general liability and other risks arising from the activities of the Federation and its affifiates, and provides related risk management assistance to enhance the

quality of patient care and to reduce the frequency and severity of losses. Such insurance and self-insurance protection is obtained from commercial carriers and from a "limited parpose" (i.e., "captive") insurance company, Planned Protection Insurance Company, Limited (PPIC), licensed and operating in Bermuda. The largest of the commercial carriers, in turn, reinsures all of its coverage through PPIC. The Federation has committed that it will apply the Insurance Program funds solely to the payment of premiums, to Insurance Program administration expenses and to other Insurance Program purposes and expenses and, therefore, such funds are not available for any other purpose.

[000168]

In 1998, in an effort to contain costs and maintain the attachment point for excess layer (umbrella) coverage through December 31, 2000, the Federation prepaid the costs of such umbrella coverage. Financing, secured by fees from affiliates, was obtained in connection with this multi-year arrangement. In 1999, coverage was extended through December 31, 2001. As of June 30, 1999 and 1998, the related prepaid expenses were $3,673,064 and $3,856,179, respectively, and the liability (included in accounts payable and accrued expenses) was $2,163,000 and $3,003,000, respectively.

As of and for the years ended June 30, 1999 and 1998, the Insurance Program's total assets were $4,805,749 and $5,337,846 and total net assets wore $(19,401) and $35,909, respectively.

(12) Unrestricted Net Assets Designated by the Board of Directors

The following table summarizes the various purposes for which the Board of Directors has designated unrestricted net assets at June 30, 1999 and 1998:

		1999	1998
For operating activities - grants and services			
To affiliates - USA	$	204,032	72,054
For long-term investment:			
For grants and service to affiliates - USA Fund for the Future (note 2)	$	2,759,832	2,675,856
For general purposes:			
Gift annuity funds		735,515	611,562
Endowment funds		3,327,254	1,110,375
Investment income in excess of spending Formulas		1,523,258	1,154,571
	$	8,345,859	5,552,364

FOLDOUT EXHIBITS

[000169-000174]

Notes to Consolidated Financial Statements

Consolidating Schedule for the Balance Sheet

Consolidating Schedule for the Statement of Activities - Unrestricted Net Assets

Consolidating Schedule for the Statement of Activities - Temporarily Restricted Net Assets

Consolidating Schedule for the Statement of Activities - Permanently Restricted Net Assets

(13) Temporarily Restricted Net Assets and Permanently Restricted Net Assets

The following table summarizes the nature of the temporarily restricted net assets at June 30, 1999 and 1998, and the purposes for which such net assets may be used:

	1999	1998
For operating activities:		
Grants and service to affiliates – USA:		
Fund for the Future (note 2)	$ 126,522	339,403
Other	3,445,354	2,206,980
Service to the field of family planning	8,932,109	2,641,379
International assistance – family planning	3,220,590	2,490,925
General purposes (time restricted)	600,000	—
	16,324,575	7,678,687
For long-term investment:		
Time restricted:		
Pooled income funds	899,095	693,594
Unitrust and annuity trust funds	1,265,739	1,100,239
Purpose restricted:		
For grants and service to affiliates – USA:		
Surgical services loan fund	103,894	128,894
Investment income in excess of spending formulas:		
Fund for the Future (note 2)	1,521,834	1,045,418
Other	183,073	179,442
For international assistance – family planning – investment income in excess of spending formulas	454,092	168,150
	4,427,727	3,315,737
Planned Parenthood Action Fund, Inc. – primarily service to the field of family planning	(144,379)	585,259
	$ 20,607,923	11,579,683

(Continued)

The following table summarizes the nature of the permanently restricted net assets at June 30, 1999 and 1998, and the purposes for which the income on such net assets may be used:

	1999	1998
Endowment funds for:		
Grants and service to affiliates – USA:		
Fund for the Future (note 2)	$ 2,995,952	2,932,403
Other	296,781	296,501
Service to the field of family planning	1,382,122	1,382,122
International assistance – family planning	3,902,736	3,902,736
General purposes	682,504	381,210
Beneficial interest in perpetual trust – for general purposes	3,592,839	3,064,856
The Planned Parenthood Foundation - endowment fund for general purposes	78,142	78,142
	$ 12,931,076	12,037,970

(14) Subsequent Event

On July 12, 1999, the Federation purchased a building at 1780 Massachusetts Avenue, N.W., Washington, D.C., for its public policy programs. The building is currently being renovated and is expected to be ready for occupancy in March 2000. The purchase price of the building was $3,250,000, and the total cost of the project, including renovations, furnishings and equipment, will approximate $7,000,000. A $500,000 deposit towards the purchase of the building has been included in receivables, advances and deposits in the accompanying consolidated financial statements. Additionally, $214,894 of acquisition, due diligence and design costs incurred prior to June 30, 1999 has been capitalized as construction in progress, within property and equipment.

In connection with the purchase, the Federation took out a short-term (bridge) loan with Bank of America, N.A. ("B of A"), on July 12, for $4,000,000. The loan is a floating rate loan, at the 30-day LIBOR plus 70 basis points (.70%), and matures on December 31, 1999. The short-term loan will be replaced by long-term financing, predominately tax-exempt bonds to be issued by the District of Columbia (with an underlying letter of credit from B of A) on or about December 1, 1999. Such long-term financing is expected to finance the entire cost of the project.

Schedule 1

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Consolidating Schedule for the Balance Sheet

June 30, 1999

	Planned Parenthood Federation of America, Inc.	Planned Parenthood Action Fund, Inc.	The Planned Parenthood Foundation	Eliminations	Planned Parenthood Federation of America, Inc. (consolidated)
Assets					
Cash	$ 780,109	247,252	230,809	—	1,258,170
Investments held for current operations	17,460,183	4,700	61,121	—	17,526,004
Receivables, advances and deposits:					
Affiliates	1,913,556	—	—	(323,338)	1,590,218
Other	1,159,669	—	—	—	1,159,669
Contributions and grants receivable, net	8,182,690	400	—	—	8,183,090
Inventories, supplies and prepaid expenses	4,835,234	89,859	—	—	4,925,093
Investments held for long-term purposes	29,119,967	—	108,819	(108,819)	29,119,967
Beneficial interest in perpetual trust	3,592,839	—	—	—	3,592,839
Property and equipment, net	2,203,435	—	—	—	2,203,435
Total assets	$ 69,247,682	342,211	400,749	(432,157)	69,558,485
Liabilities and Net Assets					
Accounts payable and accrued expenses	$ 10,011,966	311,895	6,820	—	10,330,681
Payables to related organizations	2,530,264	174,695	148,643	(432,157)	2,421,445
Deferred revenue	592,992	—	—	—	592,992
Liability under split-interest agreements	4,508,942	—	—	—	4,508,942
Amounts held on behalf of affiliates and others	1,704,563	—	—	—	1,704,563
Total liabilities	19,348,727	486,590	155,463	(432,157)	19,558,623
Net assets:					
Unrestricted:					
Undesignated, available for general activities	5,540,393	—	—	—	5,540,393
Designated by the Board of Directors:					
For operating activities	204,032	—	—	—	204,032
For long-term investment	8,345,859	—	—	—	8,345,859
Net investment in property and equipment	2,203,435	—	—	—	2,203,435
The Planned Parenthood Foundation	—	—	167,144	—	167,144
	16,293,719	—	167,144	—	16,460,863
Temporarily restricted:					
For operating activities	16,324,575	—	—	—	16,324,575
For long-term investment	4,427,727	—	—	—	4,427,727
Planned Parenthood Action Fund, Inc.	—	(144,379)	—	—	(144,379)
	20,752,302	(144,379)	—	—	20,607,923
Permanently restricted	12,852,934	—	78,142	—	12,931,076
Total net assets	49,898,955	(144,379)	245,286	—	49,999,862
Total liabilities and net assets	$ 69,247,682	342,211	400,749	(432,157)	69,558,485

See accompanying independent auditors' report.

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Schedule 2

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Consolidating Schedule for the Statement of Activities - Unrestricted Net Assets

Year ended June 30, 1999

	Planned Parenthood Federation of America, Inc.	Planned Parenthood Action Fund, Inc.	The Planned Parenthood Foundation	Eliminations	Planned Parenthood Federation of America, Inc. (consolidated)
Revenue, gains and other support:					
Revenue and gains:					
Contributions and grants:					
Direct response	$ 20,120,775	—	—	—	20,120,775
Major donors, foundations and corporations	4,104,038	—	209,618	(300,000)	4,013,656
Bequests	4,432,823	—	—	—	4,432,823
Affiliates, principally National Program Support	5,000,174	—	—	—	5,000,174
Federated fund-raising organizations	—	—	225,338	—	225,338
Donated services and commodities	185,150	—	—	—	185,150
Total contributions and grants	33,842,960	—	434,956	(300,000)	33,977,916
Other revenue and gains:					
Sales of publications and commodities	616,952	—	—	—	616,952
Interest and dividends	703,949	—	6,921	—	710,870
Net appreciation in fair value of investments	556,661	—	10,131	—	566,792
Change in value of split-interest agreements	(712,723)	—	—	—	(712,723)
Fees for services to affiliates and others	2,567,461	—	—	(14,400)	2,553,061
Total other revenue and gains	3,732,300	—	17,052	(14,400)	3,734,952
Net assets released from restrictions:					
Satisfaction of restrictions	9,164,450	3,421,266	1,162	—	12,586,878
Recovery of program administrative costs	61,664	—	—	—	61,664
Total net assets released from restrictions	9,226,114	3,421,266	1,162	—	12,648,542
Total revenue, gains and other support	46,801,374	3,421,266	453,170	(314,400)	50,361,410
Expenses:					
Program services:					
Grants and service to affiliates - USA	15,912,111	255,518	339,600	(300,000)	16,207,229
Service to the field of family planning	9,606,132	1,914,738	—	—	11,520,870
International assistance - family planning	3,758,961	—	—	—	3,758,961
Total program services	29,277,204	2,170,256	339,600	(300,000)	31,487,060
Supporting services:					
Management and general	5,272,396	167,981	25,223	(14,400)	5,451,200
Fund-raising	7,259,454	1,083,029	61,445	—	8,403,928
Total supporting services	12,531,850	1,251,010	86,668	(14,400)	13,855,128
Total expenses	41,809,054	3,421,266	426,268	(314,400)	45,342,188
Increase in net assets	4,992,320	—	26,902	—	5,019,222
Net assets at beginning of year	11,301,399	—	140,242	—	11,441,641
Net assets at end of year	$ 16,293,719	—	167,144	—	16,460,863

See accompanying independent auditors' report.

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PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Consolidating Schedule for the Statement of Activities - Temporarily Restricted Net Assets

Year ended June 30, 1999

	Planned Parenthood Federation of America, Inc.	Planned Parenthood Action Fund Inc.	The Planned Parenthood Foundation	Planned Parenthood Federation of America, Inc. (consolidated)
Revenue, gains and other support:				
Revenue and gains:				
Contributions and grants:				
Direct response	$ 58,857	2,584,525	—	2,643,382
Major donors, foundations and corporations	15,391,212	93,246	1,162	15,485,620
Bequests	650,000	—	—	650,000
Donated services and commodities	223,802	—	—	223,802
Federated fund-raising organizations	403,374	—	—	403,374
Governmental grants	378,244	—	—	378,244
Total contributions and grants	17,105,489	2,677,771	1,162	19,784,422
Other revenue and gains:				
Interest and dividends	125,344	13,857	—	139,201
Net appreciation in fair value of investments	1,635,234	—	—	1,635,234
Change in value of split-interest agreements	192,436	—	—	192,436
Total other revenue and gains	1,953,014	13,857	—	1,966,871
Net assets released from restrictions:				
Satisfaction of restrictions	(9,164,450)	(3,421,266)	(1,162)	(12,586,878)
Recovery of program administrative costs	(61,664)	—	—	(61,664)
Total net assets released from restrictions	(9,226,114)	(3,421,266)	(1,162)	(12,648,542)
Total revenue, gains and other support	9,832,389	(729,638)	—	9,102,751
Increase (decrease) in net assets before other change in net assets	9,832,389	(729,638)	—	9,102,751
Other change in net assets - refund to donor	(74,511)	—	—	(74,511)
Increase (decrease) in net assets	9,757,878	(729,638)	—	9,028,240
Net assets at beginning of year	10,994,424	585,259	—	11,579,683
Net assets at end of year	$ 20,752,302	(144,379)	—	20,607,923

See accompanying independent auditors' report.

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Consolidating Schedule for the Statement of Activities - Permanently Restricted Net Assets

Year ended June 30, 1999

	Planned Parenthood Federation of America, Inc.	The Planned Parenthood Foundation	Planned Parenthood Federation of America, Inc. (consolidated)
Revenue, gains and other support:			
Revenue and gains:			
Contributions and grants:			
Major donors, foundations and corporations	$ 33,650	—	33,650
Bequests	301,294	—	301,294
Affiliates	30,179	—	30,179
Total contributions and grants	365,123	—	365,123
Other revenue and gains:			
Gain on beneficial interest in perpetual trust	527,983	—	527,983
Total other revenue and gains	527,983	—	527,983
Total revenue, gains and other support	893,106	—	893,106
Increase in net assets	893,106	—	893,106
Net assets beginning of year	11,959,828	78,142	12,037,970
Net assets at end of year	$ 12,852,934	78,142	12,931,076

See accompanying independent auditors' report.

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[000175]

BYLAWS
of the
PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

AMENDED BY THE MEMBERSHIP AT ITS MEETING ON DECEMBER 5, 1998

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[000177]

ARTICLE I - NAME

a. The name of this corporation shall be the Planned Parenthood Federation of America, Inc.*, hereinafter called the Federation, or PPFA.

b. (1) PPFA owns all right, title, and interest in all trademarks, service marks, trade names, logos, and designs that include or use the words "Planned Parenthood" or the initials "P" or "PP" in design form, or with which the words "Planned Parenthood" or the initials "P" or "PP" in design form are used in close connection or proximity (hereinafter the "Trademarks").

(2) The Membership of PPFA established on November 5, 1993 and April 22, 1995 policies whereby PPFA or its licensee(s) are authorized under certain conditions to manufacture, market, distribute, and/or sell products (the "Products") bearing the Trademarks. In using PPFA's Trademarks, PPFA and its licensees will adhere to the Trademarks Procedures Handbook described in Section 9(c) (1) and 9(c) (6) of Article XIV of these Bylaws.

(3) All ownership rights in and to the Trademarks and the goodwill associated therewith developed in connection with the manufacture, marketing, distribution, and/or sale of the Products inures solely to the benefit of PPFA. Except as otherwise specifically provided in these

---

* On October 25, 1961 the World Population Emergency Campaign was amalgamated with the Planned Parenthood Federation of America, Inc.

Bylaws, no person, corporation, partnership or other legal entity, including without limitation Affiliates and any other organizations permitted to use the Trademarks pursuant to Section 8 of Article XIV of these Bylaws or otherwise ("Permitted Organizations"), shall have any claim of rights in or to the Trademarks nor any claim to any royalties or other income realized by PPFA as a result of the manufacture, marketing, distribution, or sale of the Products.

(4) All proceeds from the manufacture, marketing, distribution, or sale of the Products shall be used to fund programs that benefit the entire Federation. Revenue sharing procedures shall be determined by the ad hoc committee to be established composed of members of the PPFA Finance and Trademark Committees with representatives from the Affiliate Chief Executives Council and the Volunteer Leadership Council.

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ARTICLE II - PURPOSE

We believe that the ability to regulate one's own fertility is a basic human right essential to the emotional, physical, social and economic well-being of the individual, the family, the community, the nation, and the world. Therefore, the purpose of the Federation shall be:

a) To provide leadership:

- in making effective means of voluntary fertility regulation, including contraception, abortion, sterilization, and infertility services, available and fully accessible to all as a central element of reproductive health care;

- in achieving, through informed individual choice, a U.S. population of stable size in an optimum environment;

- in stimulating and sponsoring relevant biomedical, socio-economic, and demographic research;

- in developing appropriate information, education, and training programs;

b) To support and assist efforts to achieve similar goals in the United States and throughout the world.

Positions and programs adopted in pursuit of the above goals should be constantly reviewed and reevaluated in the light of changing conditions.

The Federation shall not discriminate on the basis of race, color, religion, sex, national origin, age, disability, sexual orientation, income, marital status, or other bases protected by applicable law.

The Federation reaffirms that where any program with which it is associated becomes tainted with such bias, it will vigorously and promptly disassociate the Federation from it.

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ARTICLE III - MEMBERSHIP

The Federation is a membership organization. Each organization which has been found by the PPFA Board of Directors to have fulfilled the requirements set forth in the Standards of Affiliation (Article XIV) and which has been certified by the Board of Directors as an Affiliate (Article V,

Section 6.1) shall have three memberships. Each member of the Board of Directors selected in accordance with Article V, Section 2 shall have one membership.

The retention by an Affiliate of its memberships shall depend upon continuing conformity with the Standards of Affiliation (Article XIV), and may be terminated by the Board of Directors pursuant to Article V, Section 6.n.

The Membership is the policy-forming body of the Federation. It is responsible for approving long-range goals and priorities of the Federation.

The Board of Directors may create such classes of non-voting Associate Membership as it may consider appropriate.

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ARTICLE IV - MEETINGS OF THE MEMBERSHIP

Section I. Annual and Special Meetings.

a. Annual Meeting. There shall be an Annual Meeting of the Membership at such time and place as shall be determined by the Board of Directors.

All business which comes properly before this meeting shall be transacted, including:

- the election of Directors-at-Large and of the Chairperson and other members of the Nominating Committee, to succeed those whose terms have expired and to fill any vacancies.

- any special business of which due notice has been given
  by the Secretary in the final notice.

- consideration of reports for the closing year.

- review or amendment of the Federation's Bylaws including the Standards of Affiliation in accordance with Article XV.

- determination of the dues formula for National Program
  Support to be contributed in the ensuing year by all Affiliates to the Federation.

Any special business of which due notice has not been given by the Secretary may be placed on the agenda for vote at the request of no fewer than three (3) Affiliates from each Region. Materials regarding such special business must be mailed by such Affiliates to the National Office, each Affiliate, and each member of the PPFA Board of Directors no later than four (4) weeks in advance of the Annual Meeting.

b. Special Meetings. A special meeting may be called at any time by resolution of the Board of Directors or on the written request of those members entitled to cast ten percent (10%) of the total number of votes at a membership meeting. Special meetings shall deal only with matters of business which have been stated in the call to the meeting.

Section 2. Appointment of Delegates by the Affiliates.

Each Affiliate shall be entitled to appoint a voting delegate to represent each of its memberships at the Annual

Membership Meeting or at Special Meetings. The Affiliate's chief executive may be a voting delegate. Each Affiliate shall also be entitled to appoint an alternate delegate to represent each of its three memberships at the Annual Membership Meeting or at special meetings in the absence or inability to serve of the voting delegates. A voting delegate (or an alternate delegate) may be authorized by an Affiliate to vote one, two, or three of its memberships, except, however, that the Affiliate's chief executive may not be authorized, as a

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delegate or an alternate delegate, to vote more than one of the Affiliate's memberships.

Each affiliate shall be entitled to appoint its three (3) delegates and three (3) alternates prior to each annual or special meeting of the membership. Written notice of all delegate and alternate appointments must be mailed to the Secretary of the Federation postmarked no later than three weeks before the day of the annual membership meeting and two weeks before any special membership meeting. Written notice may also be sent via facsimile (FAX) provided that it is received by the Secretary no later than three business days after the deadline for postmarking notice by mail.

If it becomes necessary to replace a voting delegate with an alternate already appointed as provided above, written notice of the appointment must be received by the Secretary of the Federation no later than noon of the day before the day of the meeting. The alternate shall have all of the rights and shall exercise all of the duties of the voting delegate.

Section 3. Voting.

The voting delegate for each membership of an Affiliate shall have one vote at all meetings of the Membership unless such Affiliate is (i) on probation for failure to submit its annual audit; or (ii) delinquent in payment of its National Program Support; or (iii) it has been placed on administrative probation by the PPFA Board because its audited financial statements report a deficit in expendable net assets; or (iv) its accreditation has been revoked by the PPFA Board of Directors. For this purpose an Affiliate will be considered delinquent if such National Program Support has not been received by the tenth day preceding the day of the Membership Meeting. Each voting delegate may vote in person or by proxy.

Each member of the Board of Directors shall have one (1) vote at all meetings of the Membership and may vote only in person. If a member of the Board of Directors is also an Affiliate voting delegate, he/she shall have one (1) vote in each capacity.

A proxy may be given by a voting delegate of an Affiliate to the Secretary of the Federation, to a member of the Board of Directors, or to a volunteer voting delegate. Proxies shall be registered with the Secretary of the Federation, or, if the Secretary is absent or unable to serve, with a member of the Board designated by the Chairperson of the Federation by noon of the day before the day of the meeting.

Section 4. Quorum.

A quorum at all meetings of the Membership shall consist of one-third (1/3) of the total number of votes entitled

to be cast at a Membership Meeting. An Affiliate shall be considered present in person or by proxy.

[000182]

All actions of the Membership shall become effective upon a majority of the votes cast by the persons present in person or by proxy and entitled to vote, except as elsewhere provided.

Section 5. Notices.

a. Annual Meetings. First notice of the time and place of the Annual Meeting shall be given by the Secretary by mail at least four (4) months in advance to the last known address of each Affiliate. Materials on matters requiring a vote should be mailed to Affiliates as early as possible and shall be mailed at least six (6) weeks in advance of the Annual Meeting. Final notice shall be sent by the Secretary by mail one (1) month in advance of the Annual Meeting to all Affiliates and their delegates. There shall be included with such notice a suitable form of proxy for use by the delegates.

b. Special Meeting. Notice of the time and place of all special meetings shall be given by the Secretary by mail, at least four (4) weeks in advance to the last known address of each Affiliate and to each member of the Board of Directors, except that if the meeting is called by written demand of ten percent (10%) of the members entitled to vote, such demand shall be served on the Secretary and shall specify the date of the meeting, which shall be not less than two nor more than three months from the date of the written

demand. Upon receiving the written demand, the Secretary shall promptly give notice of the meeting or, if he or she fails to do so within five business days, any member signing the demand may give such notice. The notice shall contain a specific statement of the purpose or purposes for which the meeting is to be held. No matter not so specified shall be considered at the meeting. There shall be included with the notice of the special meeting a suitable form of proxy for use by the delegates.

Section 6. Action Without a Meeting.

The Membership may also take action without a meeting by written vote, provided the action has been proposed by the Board of Directors. Notice of the proposal shall be sent to each Affiliate and each member of the Board of Directors.

The notice shall specify a period of sixty (60) days from the date on which the notice is mailed, or such longer period as may be fixed by the Board of Directors, within which votes may be cast.

Each Affiliate shall have one vote for each of its memberships unless such Affiliate is (i) on probation for failure to submit its annual audit; (ii) delinquent in payment of its National Program Support as of the final day on which votes may be cast; or (iii) it has been placed on administrative probation by the PPFA Board because its audited financial statements report a deficit in expendable net assets; or (iv) its accreditation has been revoked by the PPFA Board of Directors. Each member of the Board of Directors shall have one vote.

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Votes shall be in writing and shall be sent by mail or telegram or fax or otherwise delivered to the principal office of the Federation for the attention of the Secretary, and shall be deemed to have been cast on the date on which they are received at that office.

If, by the end of such sixty (60) day period, or such longer period as may have been fixed by the Board of Directors, two-thirds (2/3) of the eligible votes shall be cast in favor of the proposed action, such action shall be approved.

[000184]

ARTICLE V - BOARD OF DIRECTORS

Section 1. Management.

The management of the Federation shall rest with the Board of Directors which may delegate the execution of its programs to appropriate officers and committees.

Section 2- Composition, Election and Tenure.

a. Other than the representative of ACEC, only volunteers shall be members of the Board of Directors. The Board of Directors shall consist of twenty-nine (29) voting members including sixteen (16) members elected by the Membership; two (2) Directors from each of the four Regions, one of whom is selected by the Region, and the other is chosen by the National Nominating Committee from among a panel proposed by his/her Region and elected by the Membership; the chairperson of the PPFA Board; one (1) member selected by ACEC; one (1) member selected by

VLC; one (1) member selected by AGI; and one (1) member selected by NMC.

Directors (excluding the *ex-officio* directors) shall be divided into three groups of eight (8). At each Annual Membership Meeting, a new group, numbering one third (1/3) shall be elected.

Whenever, by reason of amendment to the Bylaws, the number of Directors shall be reduced, all Directors then serving shall remain in office for the balance of the terms for which they were elected, and as the term of each group then in office expires, a new group shall be elected in accordance with the new Bylaw provisions, so that the reductions in number shall be phased in.

After submission to the Membership by the National Nominating Committee of nominations for elected Directors, other nominations for elected Directors shall be accepted no later than three (3) weeks before the date of the election, provided that, by such date, the consent of each nominee is obtained and each nomination is endorsed by at least three (3) Affiliates from each Region. The names of the nominees with biographical data and the names of the Affiliates by which they are nominated must be sent by the nominators to the National Office, each Affiliate and each member of the PPFA Board of Directors. A written ballot shall be required when more than one candidate has been proposed for an office.

The representatives of AGI, VLC, NMC, and ACEC shall each serve for a one (1) year term, and each of them may be designated to serve up to five (5) additional consecutive one-year terms. Directors elected by the Membership (or, in the case of a vacancy, elected by the Board) or selected by the Regions shall serve terms of three

(3) years, and each of them may serve one additional three-year term. No Director shall be designated or elected for any term which would result in more than six (6) consecutive full years as a Director, except that: (i) the Chairperson may serve as an *ex-officio* member of the Board in accordance with provisions of Article VI, Section 2, and (ii) a

[000185]

Director elected for an unexpired term of less than six (6) months shall be eligible to serve two (2) additional terms.

A Director who has served six (6) consecutive years is not eligible for reelection for a period of one year following completion of his/her sixth year of service.

The terms of Directors shall begin at the end of the Annual Meeting of the Membership except when vacancies are filled, and shall end when their successors are elected.

A Director may be removed, with or without cause, by a vote of the Membership.

Vacancies of Directors elected by the Membership may be filled in accordance with Article VII, Section 2.b.7. Vacancies among Regionally selected Directors may be filled in accordance with the procedures governing the respective Regions.

The Chairperson shall, following completion of his or her term, be an honorary member of the Board of Directors for one year.

b. The National Nominating Committee shall nominate and the Membership shall elect three persons who are Chief

Executives of Affiliates to act as non-voting Advisors to the Board to serve for a term of one year beginning at the end of the Annual Meeting of the Membership. An Advisor shall be eligible to serve up to five (5) additional one-year terms. Any Advisor who has seared six terms shall not be eligible for re-election for a period of one year following completion of his/her terms. In the event any such person ceases to be the Chief Executive of an Affiliate during the term, the vacancy shall be filled in accordance with Article VII, Section 2.b.7.

The National Nominating Committee shall receive from ACEC, for election by the Membership, a pool of names of Affiliate Chief Executives to serve as Advisors to the PPFA Board for its regular and special meetings.

Section 3. Meetings.

a. Regular Meetings. There shall be at least four (4) and not more than six (6) regular meetings yearly as scheduled by the Board of Directors.

b. Special Meetings. Special meetings of the Board of Directors maybe called by the Chairperson of the Federation upon his/her own motion or shall be called upon written request of one-third (1/3) of the Directors.

Section 4. Quorum.

A majority of the Directors shall constitute a quorum. In the presence of a quorum, a majority of the Directors in attendance at any meeting of the Board of Directors shall decide its action, except as otherwise provided.

[000186]

Section 5. Notice of Board Meetings.

a. Regular Meetings. Notice of the time and place of all meetings of the Board of Directors shall be given by the Secretary by mail, one (1) month in advance, to the last known address of each Director.

b. Special Meeting. Notice of the time and place of all special meetings of the Board of Directors shall be given by the Secretary by mail, two (2) weeks in advance to the last known address of each Director. The notice shall contain a specific statement of the purpose or purposes for which the meeting is to be held. No matter not so specified shall be considered.

Section 6. Powers and Duties.

In addition to the powers and duties conferred and imposed by law or elsewhere in these Bylaws, the Board of Directors:

a. Shall exercise full power and authority to manage the affairs of the Federation, except as otherwise provided in these Bylaws.

b. Shall ensure that the Federation does not engage in any activity which will jeopardize the Federation's federal tax exemption and specifically that the Federation shall not attempt to influence legislation except to the extent permitted by Section 501 or any succeeding or related section of the Internal Revenue Code, nor shall the Federation participate or intervene

in any political campaign of any candidate for public office.

c. Shall elect:

(i) the officers specified in Article VI, Section 1 after their nomination by the National Nominating Committee, as provided in Article VII, Section 2.b.6.

(ii) representatives to the Western Hemisphere Region of the International Planned Parenthood Federation in accordance with Article XII.

d. Shall appoint the President as provided for in these bylaws.

e. Shall have the power to remove from office, with or without cause, any elected officer, Committee chairperson, Committee member, or appointee upon the majority vote of the Board of Directors.

f. Shall have the power to remove any member of the Board of Directors who, without adequate reason, fails to attend two (2) Board meetings in a year. The Secretary shall send a notice of such removal, with a copy of this section of the Bylaws, to the Director so affected immediately following action by the Board of Directors.

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g. Shall consider, modify in its discretion, and act upon the annual budget recommended by the committee

which addresses matters related to finance, shall recommend a formula for dues and contributions for Affiliates in support of the Federation, and shall raise funds for overall Federation operations with the active cooperation of the Affiliates.

h. Shall recommend long-range goals and Federation-wide objectives for Membership approval, and shall approve a program for the ensuing year through which the National Office addresses these goals and objectives.

i. Shall receive an annual evaluation from the PPFA President on the National Office's performance with respect to the goals and objectives contained in the national program plan.

j. Shall promulgate procedures for all committees of the Board and PPFA.

k. May recommend to the Membership amendments of the Bylaws, including the Standards of Affiliation (Article XIV), and the Policy Statements.

l. Shall receive from the Affiliate Development and Accreditation Committee recommendations for affiliation or renewal of affiliation and, in accordance with the Standards of Affiliation (Article XIV), shall accredit new Affiliates, or renewals of affiliation of previously accredited Affiliates.

m. May create classes of non-voting Associate Membership and promulgate standards not inconsistent with the Standards of Affiliation (Article XIV) for the acceptance of such nonvoting Associate Members.

n. May, upon the recommendation of the Affiliate Development and Accreditation Committee, terminate or place on probation any Affiliate or any provisional Affiliate, in accordance with the Standards of Affiliation (Article XIV).

o. Shall evaluate the performance of the President of the Federation at least every two years.

p. Shall determine the compensation of the President.

q. Shall, in accordance with applicable law, present at the annual membership meeting a financial report verified by the Chairperson and Treasurer or by a majority of the Directors, or by a certified public accountant.

Section 7. Financial Responsibilities of Directors.

Each Director shall make a personal contribution to PPFA and shall participate in the fundraising activities of PPFA.

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Section 8. Executive Committee.

a. Composition.

The Executive Committee shall consist of the following persons: the Chairperson, who shall chair the Executive Committee; the Chairperson-Elect, if any; the Vice Chairperson; the Treasurer; the Secretary; the Chairperson of ACEC; and the Chairperson of

VLC. If he or she is not a current member of the Board, the Chairperson-Elect shall be a non-voting member of the Executive Committee.

b. Duties.

(1) The Executive Committee shall be responsible to the Board of Directors with full power to act in the operation and management of the Federation if an urgent matter arises between meetings of the Board.

(2) It shall report in writing its actions to the Board of Directors, which shall be asked to ratify its decisions at the next regularly scheduled Board meeting.

c. Meetings and Voting.

The Executive Committee shall meet at the call of the Chairperson of the Federation, or by petition of at least two (2) members of the Executive Committee to address urgent matters that may arise between meetings of the Board of Directors. Timely notice of the time and place of all meetings of the Executive Committee shall be given by the Chairperson by telephone or by express mail to the last known address of each member of the Committee. A majority of the members of the Executive Committee shall constitute a quorum and in the presence of a quorum a majority of the members in attendance at any meeting shall decide its action.

Action of the Executive Committee may be taken any time without a meeting by the unanimous written consent of all the voting members of the Executive Committee to a

resolution authorizing such action and any action may be so taken which might have been taken at a meeting duly called. Any such action or resolution in writing signed by all the members of the Executive Committee and recorded by the Chairperson in the book containing the records of meetings of the Committee shall have the same force and effect as if unanimously adopted at a meeting of the Executive Committee duly called and held.

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ARTICLE VI - OFFICERS

Section 1. Elected Officers.

The elected officers of the Federation shall be a Chairperson, a Vice Chairperson, a Secretary, a Treasurer, and such other officers as the Board of Directors may designate.

Section 2. Election of Officers.

The elected officers shall be selected in accordance with Article V, Section 6.c., at a regular board meeting preceding the Annual Membership Meeting.

a. Chairperson. The term of office of the Chairperson shall be two years. A person may not be elected to serve as Chairperson for more than one term without at least one year intervening between terms. The Chairperson shall continue to serve as a member of the Board irrespective of the expiration of his or her Board term

contemporaneously with the beginning of, or during, his or her service as Chairperson.

b. Other. The term of office of each elected officer other than the Chairperson shall be one year and, thereafter, until his or her successor is elected. No person may hold such an elected office for more than three consecutive years.

Section 3. Vacancies.

Any vacancy among the elected officers shall be filled as follows:

a. Chairperson. The Vice-Chairperson shall fill any vacancy in the office of Chairperson. If there is a vacancy in the office of Vice-Chairperson, the Board shall fill that vacancy in accordance with subsection b., below.

b. Other offices. Any vacancy in an office other than that of Chairperson shall be filled by the Board of Directors for the unexpired term of the vacant office. An officer elected to fill a vacancy for an unexpired term of less than six (6) months shall be eligible to serve three (3) additional full terms.

Section 4. Duties of Elected Officers.

a. Chairperson.

(1) The Chairperson shall be the chief officer of the Federation and he/she shall have the powers and shall perform the duties incident to that office.

(2) The Chairperson, in addition to the powers and duties of chief officer, shall:

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(a) preside at all meetings of the Membership and at all meetings of the Board of Directors and of the Executive Committee;

(b) appoint, from among voting members of the Board, subject to the approval of the Board of Directors, the Chairpersons of all committees except the National Nominations Committee, the National Medical Committee and the committee which addresses matters related to finance;

(c) appoint, subject to the approval of the Board of Directors, such other committees, working groups or advisory councils as are deemed necessary, and the members and chairpersons of such committees, working groups, or advisory councils as are deemed necessary by him/her, and the members and chairpersons of such committees, working groups, or advisory councils;

(d) in consultation with the Chairperson of the AGI, appoint to the AGI Board the number of Board members authorized by the special

affiliation agreement between PPFA and the AGI;

(e) be an *ex-officio* member of all committees except the National Nominating Committee;

(f) make an annual written report to the Membership;

(g) cause notice to be given of all meetings of the Executive Committee as herein provided; and

(h) be responsible for recording the minutes of all meetings of the Executive Committee and causing copies of the minutes to be sent to all Board members and to all Affiliates of the Federation.

b. Vice Chairperson.

(1) The Vice Chairperson shall perform all the duties of the Chairperson in the absence or inability to serve of the Chairperson, or in the event of a vacancy in that office.

(2) The Vice Chairperson shall perform such other functions as shall be assigned to him/her by the Chairperson.

c. Secretary.

(1) The Secretary shall be responsible for recording the minutes of all meetings of the Membership and of the Board of Directors.

(2) He/She shall cause notice to be given of all meetings of the Membership and of the Board of Directors, as herein provided.

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...provisions for nomination set forth in these bylaws. The Chairperson-Elect shall serve as a member of the Executive Committee and is authorized to attend all meetings of committees of the Board or the Federation except meetings of the National Nominating Committee. The Chairperson-Elect may contemporaneously hold any other elected office of the Federation.

b. Other Officers.

After election of officers by the Board prior to the Annual Membership Meeting, such officers shall serve as officers-elect from that date until the close of the Annual Membership Meeting, at which time they shall automatically become officers provided that they are then members of the Board of Directors....

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....three additional Persons of Color so that not less than one-third (1/3) of the slate proposed to the Membership for the following year's NNC is comprised of Persons of Color.

Nominations for Chairperson of the Nominating Committee and the non-regionally elected members of the Nominating Committee to serve for the ensuing year shall be made by the Nominating Committee.

Other nominations for these positions shall be accepted no later than three weeks before the date of the election, provided the consent of each nominee is obtained in advance and that each nominee is endorsed by at least three Affiliates from each Region. The names of the nominees with biographical data and the names of the Affiliates by which they are nominated must be sent by the nominators to the National Office, each Affiliate and each member of the PPFA Board of Directors. A written ballot shall be required when there are more candidates than vacancies.

Members shall be elected for one (1) year, and may be re-elected to serve for not more than three (3) successive years. A member elected to fill a vacancy for an unexpired term of less than six (6) months shall be eligible to serve for three (3) additional years. One member of the Nominating Committee of each of the four (4) Regional Councils designated by his/her respective Council shall serve on the PPFA Nominating Committee.

Vacancies among the non-regionally designated members of the Nominating Committee shall be filled by the Board of Directors in accordance with Article VII, Section 2.b. (7).

b. Duties

(1) The Nominating Committee shall prepare and submit to the Annual Membership Meeting a slate for members of the Board of Directors, pursuant to Article V, Section 2, and a slate for Chairperson and non-regionally elected members of the Nominating Committee for the ensuing year.

(2) It shall evaluate present non-regionally elected members of the Board of Directors before they are proposed for re-election.

(3) It shall send a request to each member of the Board of Directors, to each Affiliate and to each Regional Council eight (8) months prior to the Annual Membership Meeting for names of persons to be considered as candidates for Board members and candidates for the National Nominating Committee. It shall also send a request to the National Medical Committee, the Board of Directors of the Alan Guttmacher Institute, the Affiliate Chief Executives Council and the Volunteer Leadership Council for the names of their designated candidates.

[000193]

(4) It shall be responsible for outlining to prospective members of the Board of Directors and of the Nominating Committee the duties they will be asked to undertake.

(5) The National Nominating Committee, six (6) weeks prior to the Annual Membership Meeting, shall send to each Affiliate and to each member of the Board of Directors, the proposed slate of nominations for Directors-at-Large and Directors nominated from the panels proposed by each of the four Regions, and for non-regionally designated members of the National Nominating Committee. Biographical material on each nominee for the Board of

Directors and for the National Nominating Committee shall be included.

(6) At a regular Board Meeting preceding the Annual Membership Meeting, it shall submit nominations for all officers to the Board and shall notify the Membership. The persons so nominated may attend all meetings of the Board, the Executive Committee, and the meetings of all committees of the Federation. Nothing contained in this subsection shall be deemed to grant to any person so selected the right to vote at any meeting where such person would not otherwise have a vote, or to require the election of that person by the Board of Directors elected at the Annual Membership Meeting.

(7) At any subsequent meeting of the Board, it shall submit nominations to fill any vacancies occurring among the officers, non-regionally elected Directors, non-regionally designated members of the National Nominating Committee; and non-voting Chief Executive Advisors to the Board.

(8) At least three (3) months in advance of the Annual Membership Meeting, it shall make its nomination of the person to serve as Chairperson of the Federation and notify the Membership. The person so nominated may attend all meetings of the Board, the Executive Committee and the meetings of all committees of the Federation. Nothing contained in this subsection shall be deemed to grant to the

person so selected the right to vote at any meeting where such *person would not* otherwise have a vote, or to require the election of that person by the Board of Directors elected at the Annual Membership Meeting.

(9) It shall consult with the Chairperson of the Federation on suggestions for Chairpersons of National Committees to be appointed by him/her and on representatives to the Western Hemisphere Region Council of the International Planned Parenthood Federation, as provided for in the governing documents of that organization.

Section 3. Other Committees.

The composition of the Affiliate Development and Accreditation Committee shall include one member selected by each **[000194]** Regional Council from among the members of the Board of Directors elected from that Region.

Section 4. Committee Meeting.

With the consent of the committee Chairperson, any one or more members of any committee, including the Executive Committee, may participate in a meeting of such committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

[000195]

ARTICLE VIII - REGIONS OF THE FEDERATION

The Board of Directors shall divide the country into four Regions according to the community of interests in the states which compose each Region.

Each Region shall be a division of the Federation operating under the Federation's Bylaws and supervision, with such staff as the President deems necessary.

Each Region shall have a Regional Council operating under its own rules. Each Regional Council shall elect one (1) person to serve on the Board of Directors for a term of three (3) years. In addition, each Regional Council shall propose a panel of two (2) to four (4) Candidates for the second Board of Directors position representing the Regions in accordance with Article V, Section 2. Each panel of candidates shall include at least one Person of Color as defined in Article XIX - DEFINITIONS. Each Regional Council shall provide the National Nominating Committee with the names of and information about its panel of candidates within one week of its spring regional meeting. Each Regional Council shall notify the National Nominating Committee of any vacancy in the position of Regionally elected Director or Regionally-based director elected nationally (collectively referred to as "Regionally selected" directors). The appropriate Regional Council shall designate a new person to fill any vacancy in the position of Regionally elected director in accordance with the procedures governing that Region. The National Nominating Committee, following consultation with the Chairperson of the Regional Nominating Committee, shall designate a new person to fill any vacancy in the position of Regionally-based director elected nationally, giving consideration to the

remaining members of the panel proposed by the Regional Council. Each person selected by the Region to serve on the Board of Directors shall be a resident of such Region. In the event any such person shall, after being selected to serve on the Board of Directors, cease to be a resident of the Region which selected him/her, he/she shall immediately tender his/her resignation to the Board of Directors.

[000196]

ARTICLE IX - AFFILIATE CHIEF EXECUTIVES COUNCIL AND VOLUNTEER LEADERSHIP COUNCIL OF PLANNED PARENTHOOD

There shall be an Affiliate Chief Executives Council and a Volunteer Leadership Council of Planned Parenthood, each of which shall have the right to designate a voting representative to each committee of PPFA except the National Nominating Committee and the Board Policy Monitoring Committee.

[000197]

ARTICLE X - POLICYHOLDERS COUNCIL

There shall be a Policyholders Council directly responsible to the Membership whose composition, tenure and duties shall be as follows:

Section 1. Composition and Tenure.

The Council shall consist of eleven (11) members, including:

The PPFA Treasurer.

The ADA Committee Chairperson.

One (1) Executive Director elected by each of the four ACEC Regional Councils. Their term of election shall be two (2) years and they may serve no more than two (2) consecutive terms.

Two (2) volunteers selected by the PPFA Board Chairperson from the Board of Directors. Their term of appointment shall be one (1) year. They may be reappointed to serve a total of not more than three (3) consecutive terms.

Three (3) volunteers elected by the eight (8) other members of the Policyholders Council. These volunteers preferably shall have a background and expertise in insurance/risk management. Their term of election shall be two (2) years. They may serve no more than two (2) consecutive terms.

All terms shall commence at the first meeting following the Annual Meeting.

Section 2. Duties.

a. The Policyholders Council shall have the final authority with respect to all matters pertaining to the National Insurance Program.

b. The Policyholders Council shall have authority over all matters pertaining to nomination and election of its Chairperson, Vice Chairperson, non-PPFA Board volunteer members, and the U.S. Directors of the Planned Protection Insurance Company, Limited.

c. The Policyholders Council shall report to the Membership at least annually.

[000198]

ARTICLE XI - FUND FOR THE FUTURE COUNCIL

There shall be a Fund for the Future Council ("FFC") that is responsible for developing and administering an endowment fund for affiliate development called the "Fund for the Future." The Council shall report directly to the PPFA Membership.

Section 1. Composition and Tenure.

The Council shall consist of eleven (11) members:

Four (4) executive directors, one elected by each of the four (4) ACEC regional councils.

Four (4) affiliate volunteers, one elected by each of the four (4) VLC regional councils.

Two (2) volunteers selected by the PPFA Chairperson from among members of the PPFA Board of Directors.

One (1) PPFA staff member selected by the PPFA President.

All eleven (11) appointments shall be subject to approval by the PPFA Membership at its annual meeting. Each member shall be appointed to a three-year term, and may be appointed to serve a total of no more than two consecutive terms; no member may be appointed to any term

that would result in more than six (6) consecutive full years as a member. All terms shall commence at the first meeting following the Annual Membership Meeting and will initially be on a staggered basis Eo be determined by lot at the first meeting of the Council.

Vacancies in unexpired terms may be filled in accordance wiuh the procedures set forth above for election or selection of Council members. A person who fills an unexpired term shall be eligible to serve one additional full term.

The Council shall have a chairperson, appointed by the PPFA Chairperson, a Vice Chairperson, and such other officers as shall be deemed necessary by the Council, who shall be elected by the members of the Council. Each officer shall serve for a term of one year, and may be appointed or elected to serve a total of no more than three (3) consecutive terms in any one office.

Section 2. Duties.

a. The Council shall develop and administer all aspects of a long-term affiliate development endowment fund, to be called the "Fund for the Future," in accordance with the recommendations authorizing the creation of this fund adopted by the PPFA Membership on 10/21/89. The Council shall:

(1) develop and coordinate a fundraising plan;

(2) oversee implementation of the fundraising plan;

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(3) develop criteria for grant-making;

(4) allocate the fund's income; and

(5) monitor the success of the fund.

All contributions solicited and accepted for the Fund for the Future shall be solicited on behalf of Planned Parenthood Federation of America, Inc., and shall be accepted by Planned Parenthood Federation of America, Inc., which, by acceptance of such contributions, shall agree to hold such contributed property in a separate fund subject to the decisions of the Council.

b. The PPFA Board of Directors shall retain final authority with respect to the investment and reinvestment of the assets held in the Fund for the Future. All assets held in the Fund for the Future shall be held in an account or accounts in the name of "Planned Parenthood Fund for the Future" and shall be kept separate from all other funds belonging to Planned Parenthood Federation of America, Inc. The PPFA Finance Committee shall consult periodically with the FFC concerning the overall strategies of investment.

c. The Council shall define the purpose for which grants will be made for the coming year or years and, each year, shall report to the Membership at its annual meeting. The Council has final authority with respect to all distributions from the Fund for the Future to or for the benefit of particular Affiliates Notwithstanding

the preceding sentence, the Fund for the Future Council shall make distributions from the Fund for the Future only from the income earned on the Fund's assets, which may include income attributable to the appreciation of the Fund's assets. Should the Fund's assets diminish, the Fund for the Future Council may, at its discretion, restore the corpus of the fund by reinvesting earnings or by implementing a new fundraising plan, so long as the plan is approved by all participating organizations, including PPFA and its affiliates.

d. Notwithstanding Article XV of these Bylaws, no amendment may be made to this Article unless such amendment is approved at a meeting of the Membership by a vote of three-fourths (3/4) of the persons present in person or by proxy and entitled to vote. Any provision of this Article, including but not limited to the requirement that income only be distributed from the Fund for the Future, may be amended if such amendment is made in accordance with this subsection.

[000200]

ARTICLE XII - INTERNATIONAL REPRESENTATION

The representatives to the Western Hemisphere Region Council of the International Planned Parenthood Federation provided for in the governing documents of that organization shall be elected by the Board. Representatives shall serve for one (1) year and until their successors are elected; no representative shall serve for more than six (6) successive terms.

[000201]

ARTICLE XIII - RESTRICTIONS

1. No employee or volunteer shall have the right to incur debts or other financial obligations on behalf of the Federation without the written authorization of the Board of Directors or of the Executive Committee.

2. No employee or volunteer shall use his/her position with Planned Parenthood to further the manufacture, distribution, promotion or sale of any materials, products or services in which he or she has either direct or indirect financial interest.

3. The Trademarks may be used only in accordance with these Bylaws and only by Affiliates of Planned Parenthood Federation of America, Inc. and Permitted Organizations. Termination of the affiliation of an Affiliate or of the permission of any Permitted Organization terminates authority to use the Trademarks.

4. Each Board member and non-Board Committee member shale comply with the conflicts of interest policy established by the Board.

[000202]

ARTICLE XIV - STANDARDS OF AFFILIATION

PREAMBLE

These standards are intended to assure the quality of Planned Parenthood programs and services, to stimulate the

achievement of organizational goals and objectives, to recognize Affiliate accomplishments, and to identify areas for growth and development within the Federation.

Section 1. Authority.

a. The Affiliate Development and Accreditation Committee shall be vested with authority over all matters pertaining to recommendations of affiliation and disaffiliation.

b. The Board of Directors shall accredit Affiliates in accordance with Article V, Section 6.k. or terminate the membership of an Affiliate in accordance with Article V, Section 6.m.

c. The Affiliate Development and Accreditation Committee may grant exception to any of these standards if in its judgment the condition necessitating such exception does not jeopardize the objectives and position of PPFA.

Section 2. The Affiliate.

An Affiliate is an organization which:

a. conforms to the purposes, the written policies and standards of PPFA;

b. fulfills the requirements set forth in these Standards of Affiliation;

c. has been granted Affiliate status and use of the Trademarks by the Board of Directors of PPFA;

d. abides by the terms and conditions of such Affiliate status as established by the Board according to accreditation criteria developed by the Affiliate Development and Accreditation Committee;

e. publicly supports the purposes and policies of PPFA and shall develop a program to further those purposes and policies;

f. conducts its affairs in a manner that protects its tax-exempt status and that of PPFA.

Section 3. Affiliate Organizational Structure.

a. Each Affiliate shall be a non-profit organization maintaining federal tax-exempt status under Section 501(c) (3) or (c) (4) of the Internal Revenue Code of 1954 or any successor section.

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b. Each Affiliate shall be governed by an elected Board of Directors or similar governing body (referred to herein as the Board), the designation of officers or similar leadership structure of which shall conform to applicable laws.

c. Each Affiliate shall be governed by a Board of Directors that does not discriminate in the election of its members on the basis of race, color, religion, sex, national origin, age, sexual orientation, disability, income, or marital status.

d. Each Affiliate Board member shall make a personal financial contribution to the Affiliate.

e. Each Affiliate shall have an elected committee responsible for the nominating process. Each such committee shall include at least one Person of Color as defined in Article XIX - DEFINITIONS.

f. Each Affiliate shall provide for the employment of a chief executive. A permanent record of the annual assessment of the chief executive shall be maintained.

g. Each Affiliate shall have the words "Planned Parenthood" in its name.

Section 4. Affiliate Bylaws.

a. Each Affiliate shall be governed by written bylaws which conform to PPFA policies, which establish the composition of the Board of Directors and its election process, and which meet all other minimum legal requirements.

b. The bylaws shall provide for the appointment of a chief executive, who shall be solely responsible to the Board for the implementation of Board policies, and for all aspects of the agency's operation.

c. The bylaws shall specify that the Board shall be ultimately responsible for the financial well-being of the corporation; the Board's duties shall include adoption and monitoring of an annual budget, and review of the annual audit.

Section 5. Affiliation Mandates.

a. Each Affiliate shall be managed in accordance with sound financial principles, shall maintain accurate

books and records in accordance with generally accepted accounting principles which include reporting standards for voluntary health and welfare organizations, and shall comply with the requirements of its funding sources.

b. Each Affiliate which provides medical services shall provide such services in conformity with the Medical Standards and Guidelines promulgated by PPFA.

[000204]

c. Each Affiliate shall provide services consistent with the purposes of PPFA.

d. Each Affiliate shall provide services in accordance with
PPFA's policy on patients' rights.

e. Each Affiliate shall participate in the PPFA Risk Management and Quality Assurance Programs, and submit required documents in a timely manner.

f. Each Affiliate shall participate in the Planned Parenthood National Insurance Program or have comparable insurance, the comparability of which shall be determined by the Policyholders Council.

g. Each Affiliate shall undertake resource development to ensure diversification and growth of agency funding. Fundraising methods and techniques shall be lawful, ethical, and confidential.

h. Each Affiliate shall contribute to the support of the Federation according to the Membership-approved

National Program Support Plan, but shall not be required to submit its donor list.

i. Each Affiliate shall participate in public affairs activities at the local, state, and national levels. When there is a Planned Parenthood state-wide public affairs organization, each Affiliate with turf in that state shall be a member.

j. Each Affiliate shall serve as a source of education and information about reproductive health and human sexuality and shall develop varied programs to ensure that such education and information are available.

k. Each Affiliate shall have human resources procedures that have been reviewed by local counsel to ensure conformity to applicable local, state, and federal laws.

l. Each Affiliate shall ensure that minority representation on its Board and staff is reflective of the Civilian Labor Force data for its turf.

m. Each Affiliate shall plan strategically for the future and shall keep a written record of its plan.

n. Each Affiliate shall secure legal counsel and an independent auditor, each to be approved by the Board.

o. Each Affiliate shall submit documents required pursuant to the accreditation criteria developed by the Affiliate Development and Accreditation Committee.

p. Each Affiliate shall adopt and comply with a policy regarding inter-affiliate transfers, accepting transient

and transfer patients in accordance with the National Medical Standards and Guidelines.

[000205]

Section 6. General Standards.

a. Neither an employee nor a volunteer of an Affiliate shall use his/her position with the Affiliate to further the manufacture, distribution, promotion, or sale of any materials, products, or services in which he or she has either direct or indirect financial interest.

b. Neither an employee nor a volunteer of an Affiliate shall accept any gift or gratuity from any pharmaceutical firm or other supplier to the Affiliate, or from any provider or potential provider of service to the Affiliate.

c. Each Affiliate shall have a policy that governs the use of
its contributors list.

d. No employee of PPFA or any Affiliate, other than the Affiliate chief executive, may serve on the Board of any Affiliate nor hold an elective office nor have voting privileges in any Affiliate.

e. No Planned Parenthood entity shall enter into any contract or other arrangement for the use of a facility that discriminates in its membership policies or otherwise, whether written or in practice, on the basis of race, color, religion, sex, national origin, age, sexual orientation, disability, income, marital status, or other bases protected by applicable law.

Section 7. Affiliate Sub-Units.

a. Each sub-unit of an Affiliate shall be under the direction, supervision, and control of the Affiliate.

b. Policy governing a sub-unit operation shall be set by the Board of the Affiliate.

c. The sub-unit's staff shall be hired by and responsible to the Affiliate's chief executive or his/her designee.

d. The Affiliate shall be responsible for ensuring that all activities, programs, services, and pronouncements of a sub-unit are in conformity with PPFA Standards and Policies.

Section 8. Other Organizations Permitted to Use the Trademarks.

a. New Organizations.

An organization whose application for Affiliate status is pending consideration by the Affiliate Development and Accreditation Committee may be granted permission by the Affiliate Service Centers to use for a limited time the Trademarks in conjunction with the statement "Application Pending for Affiliation with PPFA." The applicant organization shall, at a minimum:

(Insert complete address of principal office in California.)

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(1) publicly support the purposes and policies of PPFA and develop a

program to further those purposes and policies;

(2) serve as a source of education and information about reproductive health and human sexuality and develop varied programs to ensure that such education and information are available; and

(3) solicit private citizens and organizations for financial support of its activities.

A new organization at the end of two years must:

(1) become a provisional Affiliate, or

(2) become an Affiliate, or
(3) terminate its use of the Trademarks.

b. Provisional Affiliates.

An organization that has been granted temporary and limited authority to use the Trademarks and whose services and operation conform to all applicable Standards of Affiliation may retain that status for no longer than two years, with approval of the Affiliate Development and Accreditation Committee. Provisional Affiliates that have not been certified within two years as Affiliates shall terminate use of the Trademarks.

c. Special Affiliates.

Special Affiliates' relationships and status shall be set forth in a special affiliation agreement approved by the Board of Directors of PPFA. Compliance with the special affiliation agreement may be reviewed as necessary by the PPFA Board of Directors.

d. Organizations Formed By Two or More Affiliates.

Organizations formed by two or more Affiliates may be granted permission to use the Trademarks for successive two year periods if they report to the Affiliate Development and Accreditation Committee that they:

(1) are controlled by the Affiliates they represent;

(2) are formed to perform for those Affiliates specific services, such as public affairs, that conform to the purposes and policies of PPFA;

(3) conduct their activities in accordance with local, state, and federal regulations;

(4) maintain federal tax-exempt status under Section 501(c) (3) or (c) {4) or (c) (9) of the Internal Revenue Code of 1954 or any successor sections;

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(5) maintain accounting records for both time and money which meet the documentation requirements of the Affiliates and PPFA;

(6) participate in the National Insurance Program of PPFA or obtain comparable coverage approved by the Policyholders Council;

(7) obtain prior approval from PPFA if soliciting funds;

(8) submit an annual report of activities and a financial audit or statement; and

(9) if tax-exempt under Section 501(c)(4) of the Internal Revenue Code, comply with subsection f. of this section.

e. Ancillary Corporations.

Affiliates that form ancillary corporations must:

(1) adopt bylaws for that corporation which ensure perpetual control by the Affiliate, unless legal limitations preclude the exercise of such control;

(2) ensure that the corporation complies with PPFA Standards;

(3) secure Affiliate counsel review of the incorporation papers and bylaws of the corporation;

(4) prior to incorporation, obtain Affiliate Development and Accreditation Committee approval of the corporation's purposes and, if the corporation plans to use the words "Planned Parenthood" in its name, of its name;

(5) reflect that ancillary relationship in their audited financial statements in accordance with generally accepted accounting principles; and

(6) cause the corporations to participate in the National Insurance Program of PPFA, or obtain comparable coverage commensurate with their activities, the comparability of which shall be determined by the Policyholders Council.

f. 501(c)(4) Organization(s) Controlled By One Or More Affiliates.

A 501(c)(4) organization formed by one or more Affiliates may be granted permission to use the Trademarks for successive two year periods by completing a self-evaluation protocol developed by the Affiliate Development and Accreditation Committee and reporting results to that Committee.

501 (c) (4) organization(s) controlled by one or more Affiliates must:

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(1) Prior to incorporation, obtain affiliate Development and Accreditation Committee approval of the corporation's purposes and, if the corporation plans to use "Planned Parenthood" in its name, of its name;

(2) Secure legal review of the incorporation papers and bylaws of the corporation;

(3) Participate in the National Insurance Program of PPFA or obtain comparable coverage approved by the Policyholders Council;

(4) Maintain federal tax-exempt status under Section 501(c) (4) of the Internal Revenue Code of 1954 or any successor sections and conduct activities in accordance with local, state and federal law, including regulation of electoral activities;

(5) Check state and local tax statutes and file for state or local exemption if applicable;

(6) Register with state agencies, if required, and comply with reporting, disclosure and solicitation requirements;

(7) Indicate clearly in all solicitations that contributions are not tax deductible;

(8) Obtain prior approval from any affected Affiliate(s), or PPFA for unclaimed turf, if soliciting funds outside of their turf except that

statewide (c)(4)s may raise funds throughout the state without obtaining prior approval;

(9) Execute a contract between the Affiliate(s) and the (c) (4) stating financial arrangements;

(10) Maintain separate bank accounts from those maintained by the 501(c) (3) organization(s);

(11) Establish accounting procedures and maintain time and management records to:

(A) Insure that the (c)(4) pays all its own costs;

(B) Insure that when any Affiliate makes grants to the (c) (4), they are earmarked for educational activities, other exempt purposes, or for lobbying if counted against the (c) (3) 's lobbying limits, and are not spent for prohibited electoral activities; and

(C) Comply with PPFA's documentation requirements;

(12) Submit annually:

(A) A report of lobbying activities to the controlling Affiliate(s);

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(B) A report of activities to PPFA; and

(C) A financial audit or statement within 6 months of end of fiscal year to PPFA;

(13) Comply with the mission and policies of PPFA; and

(14) Comply with such restrictions on electoral activities as may be adopted by the PPFA Membership and Board.

Section 9. Rights to Use the Trademarks.

a. Affiliates and Permitted Organizations have a non-exclusive right to use the Trademarks and the goodwill associated therewith in connection with activities that further the goals and purposes of the PPFA mission as set forth in PPFA's mission statement. In using PPFA's Trademarks,. Affiliates and Permitted Organizations will adhere to the Trademarks Procedures Handbook described in Section 9(c)(1) and Section 9(c) (6) of Article XIV of these Bylaws. In accordance with Section 9(c) of Article XIV of these Bylaws, Affiliates and Permitted Organizations also have a non-exclusive right on notice to PPFA to use the Trademarks and goodwill associated therewith in connection with the manufacture, marketing, distribution, or sale in the United States of the following goods only: T-shirts, novelty apparel, jewelry, bumper stickers, umbrellas, awards, novelty items, and local and nationally marketed publications and films (hereinafter "Ancillary Goods"). Furthermore, an Affiliate may sell Products to its clients at the retail level, provided that such Products are supplied to the Affiliate or to its clients directly by

PPFA or by a licensee of PPFA. Affiliates or Permitted Organizations shall not use the Trademarks on any prescription medications or contraceptives, any over-the-counter health care medications or devices, or any other non-Ancillary Goods.

b. In consideration for the privileges granted to Affiliates and Permitted Organizations, they shall claim no ownership rights in or to the Trademarks nor the goodwill associated therewith arising from their use of the Trademarks, including registering with the United States Patent and Trademark Office or any other federal, state or local public officer or public agency having any similar function any of the Trademarks or any mark which might infringe upon or otherwise interfere with any of the Trademarks. Each Affiliate or Permitted Organization acknowledges that, as between PPFA and each Affiliate or Permitted Organization, PPFA is the owner of all rights, title, and interest in and to the Trademarks in any form or embodiment thereof and is also the owner of the goodwill attached or which becomes attached to the Trademarks. Each Affiliate or Permitted Organization acknowledges that the Trademarks have acquired valuable secondary meaning and goodwill with the public, and that all Ancillary Goods bearing the Trademarks should maintain a reputation of highest quality. Affiliates or Permitted Organizations shall not do or suffer to be done **[000210]** any act or thing which will in any way adversely affect any rights of PPFA in or to the Trademarks or any registrations thereof or which, directly or indirectly, will impair PPFA's rights or entitlement to the payment of royalties in connection with PPFA's licensing of the Trademarks to a third party. Each Affiliate or

Permitted Organization agrees never to challenge the validity of the Trademarks or any application by PPFA for registration thereof or any rights of PPFA therein and agrees that all sales or promotion of Ancillary Goods and all uses of the Trademarks shall be deemed to have been made by PPFA for purposes of any Trademarks registration.

c. Quality Control.

(1) All Ancillary Goods and other materials on which Affiliates or Permitted Organizations use the Trademarks must conform to the standards of affiliation or permission as set forth in these Bylaws or in any PPFA document of affiliation or permission. All Ancillary Goods, all packaging and design of the Ancillary Goods bearing the Trademarks, and all graphics and designs employed in connection with any use of the Trademarks must be duly authorized by the chief executive officer, executive d/rector, or comparable officer of the Affiliate or Permitted Organization. PPFA will provide each Affiliate and Permitted Organization with a Trademarks Procedures Handbook, as described below. If the Affiliate or Permitted Organization officer believes that the proposed use is consistent with the standards of affiliation or permission and the Trademarks Procedures Handbook, she or he may proceed with the use, manufacture, marketing, and distribution, and shall simultaneously submit to PPFA a letter describing the Ancillary Goods, graphics, and/or designs. A sample of each

item of Ancillary Goods, graphics, and/or designs also will be provided at the expense of the Affiliate or Permitted Organization. If PPFA fails to disapprove of any such submission within thirty (30) days of receipt, the submitted item shall be deemed approved. If the Affiliate or Permitted Organization officer is uncertain as to whether the proposed use is consistent, or believes that it is not consistent with the standards of affiliation or permission and the Trademarks Procedures Handbook, she or he shall submit a letter and sample to PPFA in accordance with this paragraph prior to any use, manufacture, marketing or distribution to the public. If PPFA disapproves of any Affiliate or Permitted Organization use under any provision of this paragraph, its decision shall be reviewed by the Trademark Committee or a subcommittee thereof representative of its membership at the request of the Affiliate or Permitted Organization. Ancillary Goods existing at the time of adoption of these Bylaws which are not in compliance with these Bylaws or the Trademarks Procedures Handbook may continue to be marketed, sold, distributed, or otherwise used (but not manufactured or otherwise produced) until December 31, 1996. Any use of **[000211]** existing Ancillary Goods thereafter is subject to the prior approval of PPFA and, if disapproved, to review of that decision by the Trademark Committee or representatives thereof at the request of the Affiliate or Permitted Organization.

(2) Any material alteration in the content, design, or quality of the Ancillary Goods, graphics, and/or designs bearing the Trademarks, or any material change in any other use of the Trademarks by any Affiliate or Permitted Organization, shall be submitted to PPFA for approval, prior to implementing such change, according to the procedure set forth in subsection (1) of this Section 9(c).

(3) All Ancillary Goods will be the same or substantially identical in quality and appearance to the initial or subsequent samples approved by PPFA.

(4) Each Affiliate or Permitted Organization, as the case may be, shall cause to appear on (A) all Affiliate Ancillary Goods, graphics, and/or designs bearing the Trademarks and (B) any material, item, or medium of any kind bearing, displaying, representing, or otherwise depicting the Trademarks, such legends, markings, or notices as PPFA may request in order to give appropriate public notice of PPFA's rights in and to the Trademarks. No other legends, markings, or notices may be used by an Affiliate or Permitted Organization, except with the express written prior approval of PPFA.

(5) Every Affiliate and Permitted Organization shall use its best efforts to market, sell, distribute, and/or otherwise use the Ancillary Goods bearing the Trademarks in a manner

consistent with the excellence and prestige represented by the Trademarks.

(6) To facilitate and assist PPFA, Affiliates, and Permitted Organizations in maintaining the integrity, esteem, and goodwill associated with the Trademarks, PPFA will provide to each Affiliate or Permitted Organization a Trademarks Procedures Handbook. The Trademarks Procedures Handbook will describe and illustrate acceptable uses of the Trademarks under the terms of these Bylaws. The Trademarks Procedures Handbook is illustrative and hortatory in nature and creates no rights in the Trademarks, nor in any way diminishes PPFA's ownership rights in and to the Trademarks, in particular, to PPFA's ultimate right to approve or disapprove of the use of the Trademarks. Pending issuance of the Trademark Procedures Handbook, Affiliates and Permitted Organizations should adhere to existing practices and procedures relating to the maintenance of the value and integrity of the Trademarks.

(7) Each Affiliate or Permitted Organization will use the Trademarks strictly in compliance with applicable legal **[000212]** requirements and will abide by all Quality control and other provisions set forth in this Section 9 and elsewhere in these Bylaws and PPFA policy statements or other issuances in implementation hereof. Neither Affiliates nor any Permitted Organizations shall use the

Trademarks on any prescription medications or contraceptives, any over-the-counter health care medications or devices or any other non-Ancillary Goods.

(8) Each Affiliate shall cause any Permitted Organization which it controls to comply with the requirements of this Section 9 of the Bylaws and shall guaranty that compliance.

(9) Notwithstanding any other provision of this Section 9 of Article XIV, with approval of the Trademark Committee, PPFA may grant, or an Affiliate or Permitted Organization may request, permission to use the Trademarks in a manner other than in strict compliance with these Bylaws. Such a request must be in writing, set forth in detail the manner and duration of use requested and the necessity therefor, and must be submitted to the Trademark Committee for consideration. Subject to review by the Board of Directors of PPFA, the Trademark Committee shall, in its discretion, approve or deny such requests for permission.

d. Infringement By Third Parties.

In the event that an Affiliate or Permitted Organization believes that a person or entity is infringing on or unlawfully using the Trademarks, the Affiliate or Permitted Organization shall immediately notify PPFA in writing. PPFA, in its sole discretion, may take all necessary action, including, without limitation, filing suit and enjoining the alleged infringement, with all

expenses and all damages and other compensation received as a result of taking such actions against such infringement being the sole responsibility of and belonging to PPFA.

e. Indemnification.

(1) Each Affiliate or Permitted Organization agrees to indemnify and hold PPFA, and each of its respective officers, directors, affiliates, employees, and agents, harmless from and against any damages, liabilities, losses, and expenses, including, without limitation, reasonable attorney's fees and amounts paid in settlement of any claim, of any kind or nature whatsoever, which may be sustained or suffered as a result of any use by that Affiliate or Permitted Organization of the Trademarks, which causes or is alleged to cause harm or a violation of any of the rights of any third party, including without limitation, product liability claims by a third party which may arise as a result of that Affiliate's or Permitted Organization's manufacturing, marketing, **[000213]** distribution, selling or other use of Ancillary Goods bearing the Trademarks.

(2) PPFA agrees to indemnify and hold Affiliates or Permitted Organization, and their officers, directors, affiliates, employees, and agents harmless from and against any damages, liabilities, losses, and expenses, including, without limitation, reasonable attorney's fees and amounts paid in settlement of any claim which may be sustained or suffered arising

from or as a result of any use by PPFA of the Trademarks, which causes or is alleged to cause harm or a violation of any of the rights of any third party, including without limitation, product liability claims by a third party which may arise as a result of the manufacture, marketing, distribution, sale or other use by PPFA or its licensee(s) of the Products bearing the Trademarks.

f. Assignment and License.

Neither Affiliates nor any Permitted Organizations may assign any of their rights or obligations hereunder without the prior written consent of PPFA.

g. Termination of Rights to Use of Trademarks with Ancillary Goods.

If an Affiliate or Permitted Organization fails to perform any of the terms, conditions, agreements, or covenants in Section 9 of Article XIV of these Bylaws, the rights granted to the Affiliate or the Permitted Organization pursuant to Section 9 of Article XIV of these Bylaws with respect to the use of the Trademarks on Ancillary Goods shall terminate immediately and shall remain terminated until such failure has been cured to the satisfaction of PPFA.

h. Amendment of this Section 9.

Notwithstanding anything to the contrary in these Bylaws, the terms, conditions, agreements, and covenants set forth in this Section 9 shall remain in full force and effect and be binding upon each Affiliate

and Permitted Organization in the form of these Bylaws or, if these Bylaws are amended in relevant part, in the form of a written agreement between PPFA and each Affiliate and Permitted Organization, for the duration of any agreement between PPFA and a licensee(s) with respect to the manufacture, marketing, distribution, and/or sale of the Products. Each Affiliate or Permitted Organization acknowledges that any third party who is a licensee of PPFA in connection with the manufacture, marketing, distribution, and/or sale of the Products is relying upon the covenants and representations set forth in this Section 9. Accordingly, each Affiliate or Permitted Organization shall be so bound by the terms of this Section 9 or, if these Bylaws are amended in relevant part, by the terms of an equivalent written agreement **[000214]** between PPFA and each Affiliate and Permitted Organization, and shall honor all covenants and representations therein for the duration of any such third party license agreement.

Section 10. Extension

The Affiliate Development and Accreditation Committee may recommend that an Affiliate be reaffiliated or that a new organization or a Provisional Affiliate be granted Affiliate status. Should this recommendation not be acted upon prior to the expiration date, the prior status shall be deemed to continue until the PPFA Board of Directors has acted.

Section 11. Enforcement Procedures.

Failure of any Affiliate or other organization granted use of the Trademarks to comply with the Standards of

Affiliation shall constitute grounds for administrative probation, revocation of accreditation or disaffiliation and/or loss of authority to use the Trademarks as may be determined by the Board of Directors, in accordance with the following. The Policyholders Council shall receive copies of all notices required by this section of the bylaws.

Revocation of Accreditation and Probation.

(1) The Affiliate Development and Accreditation Committee .may recommend revocation of accreditation for an Affiliate that fails to comply with the Standards of Affiliation in such a significant way as to pose a serious risk: operating in a manner harmful to PPFA, jeopardizing the quality of care and the safety of patients, failure to comply with accreditation requirements.

(2) An Affiliate shall be placed on administrative probation automatically for failure to submit its audit and management letter, failure to pay National Program Support, or failure to pay National Insurance charges on a timely basis. Administrative probation shall terminate automatically upon the submission of the required documents or payments. Upon the recommendation of the ADA Committee, the PPFA Board may place an Affiliate on administrative probation if its audited financial statements report a deficit im expendable net assets. Administrative probation shall terminate upon delivery of a financial statement, audited or reviewed by a CPA,

showing that the Affiliate has positive expendable net assets.

(3) During the period of administrative probation, the Affiliate shall not have voting privileges at meetings of the Membership of PPFA, pursuant to Bylaws Article IV, Section 3, nor the right to vote on action taken by the Membership without a meeting pursuant to Bylaws Article IV, Section 6, nor the right to vote on proposed Bylaw amendments pursuant to Bylaws Article **[000215]** XV, but shall retain all other rights, privileges, and obligations of membership.

b. Disaffiliation.

(1) Upon the acceptance of the recommendation of the revocation of accreditation as stated in Section 11.a. by the Board of Directors, or upon the Board of Directors' determination that an Affiliate or other organization granted use of the Trademarks is operating in a manner harmful to PPFA, the Board of Directors shall issue a notice of intent to disaffiliate the Affiliate or to revoke the other organization's authority to use the Trademarks and the following procedures shall be followed:

(a) The notice of intent to disaffiliate or revoke authority to use the Trademarks shall be signed by an officer of PPFA and shall be sent immediately to the Affiliate or other organization granted

use of the Trademarks by certified mail.

(b) Within thirty (30) days after the mailing of such notice, the. Affiliate or other organization granted use of the Trademarks may apply in writing to the Chairperson of PPFA for a hearing -which shall be held pursuant to Section 11.d. of this Article.

(c) If the Affiliate or other organization granted use of the Trademarks does not exercise its right to request a hearing, disaffiliation and/or revocation of the authority to use the Trademarks shall be automatic as of the thirty-fifth (35th) day after the mailing of the notice required by Section 11(b) (1) (a) of this Article.

(d) If a hearing is held and the Hearing Board determines that the Affiliate or other organization granted use of the Trademarks should be disaffiliated or authority of the organization to use the Trademarks should be revoked, disaffiliation and/or revocation of the authority to use the Trademarks shall be effective as of the date of the filing of the written report of the Hearing Board with the Secretary of PPFA. Notice of such filing and a copy of the written report of the Hearing Board

shall be sent immediately by certified mail to the Affiliate or other organization granted use of the Trademarks.

(e) Within two weeks of the filing of the written report of the Hearing Board, the Board of Directors of PPFA shall review the Hearing Board's report and shall vote to accept or reject its determination of whether the Affiliate should be disaffiliated or the other organization's **[000216]** authority to use the Trademarks should be revoked. The Board of Directors may delegate this responsibility to the Executive Committee. The following provisions shall apply:

(i) If the Hearing Board determined that the Affiliate should be disaffiliated or other organization's authority to use the Trademarks should be revoked and the Board of Directors accepts this determination, no further action is required.

(ii) If the Hearing Board determined that the Affiliate should be disaffiliated or other organization's authority to use the Trademarks should be revoked and the Board of

Directors rejects this determination, disaffiliation and revocation of the authority to use the Trademarks shall be nullified.

(iii) If the Hearing Board determined that the Affiliate should not be disaffiliated or the other organization's authority to use the Trademarks should not be revoked and the Board of Directors accepts this determination, no further action is required.

(iv) If the Hearing Board determined that the Affiliate should not be disaffiliated or the other organization's authority to use the Trademarks should not be revoked and the Board of Directors rejects this determination, the Affiliate shall be disaffiliated or the other organization's authority to use the Trademarks shall be revoked. The President of PPFA shall immediately send by certified mail notice of disaffiliation to the Affiliate or notice of revocation of the authority to use the Trademarks to the other organization formerly authorized to use the

Trademarks. Disaffiliation and/or revocation of the authority to use the Trademarks shall be effective at 12:01 A.M. Eastern time on the thirtieth day following mailing of the notice.

c. Cease and Desist Procedure.

(1) WHENEVER:

(a) The Chairperson of PPFA, the Chairperson of the National Medical Committee, and the Chairperson of the Affiliate Development and Accreditation **[000217]** Committee, in consultation with the President of PPFA, have made a unanimous written determination that an Affiliate is engaging in a medical practice which is contrary to the Medical Standards of PPFA and/or which may jeopardize the life or health of patients and/or may place the Affiliate and PPFA in serious jeopardy of increased liability risk, and have filed such determination with the Secretary of PPFA, the National Insurance Program, and the Policyholders Council; or

(b) The Chairperson of PPFA, the Chairperson of the Affiliate Development and Accreditation Committee, and one of the regionally

selected directors from the Region within which the Affiliate is located, in consultation with the President of PPFA, have made a joint written determination that an Affiliate is engaging in an activity, other than a medical practice, which in their judgment is harmful to and seriously jeopardizes the welfare of the Affiliate and/or PPFA, and have filed such determination with the Secretary of PPFA;

THEN the President of PPFA shall issue a written order that such Affiliate cease and desist from the offending practice or activity within a specified time. Such written order shall be communicated immediately to the Affiliate by registered mail.

Within seven (7) business days of receipt of such order, provided that the Affiliate is in compliance with the cease and desist order, the Affiliate may apply in writing to the. Chairperson of PPFA for a hearing pursuant to Section 11.d. of this Article. The hearing shall be held within seven (7) business days after receipt of the request for a hearing at a time and place specified by the Chairperson of PPFA unless the Affiliate requests an extension of time. The written report of the Hearing

Board shall be filed with the Secretary of PPFA within five (5) days after the close of the hearing. Notice of such filing, with a copy of the written report, shall be sent immediately to the Affiliate by registered mail.

(2) If the Hearing Board concurs that the Affiliate shall cease and desist from the offending practice or activity, the Affiliate shall continue to comply with the cease and desist order. If the Affiliate fails or refuses to comply with the cease and desist order, the Chairperson of PPFA shall recommend in writing to the Board of Directors of PPFA, with a copy to the Affiliate by registered mail, the immediate disaffiliation of such Affiliate. The written recommendation shall be supported by documentation sufficient for the Board of Directors to make an informed judgment. At the next regular meeting of the Board of Directors of PPFA, or at a special meeting called for such purpose, the Board shall review the record, receive any new evidence, and **[217]** may vote the immediate disaffiliation of such Affiliate or take such other actions it deems appropriate. The Affiliate shall receive a copy of the notice of the meeting and shall be entitled to be present. The action of the Board of Directors of PPFA shall be final and the Affiliate shall have no right to a further hearing before a Hearing Board.

d. Hearing Boards.

(1) Whenever an Affiliate or other organization applies to the Chairperson of PPFA for a hearing before a Hearing Board as provided in this Section, a Hearing Board shall be appointed to conduct such hearing. The Hearing Board shall consist of five (5) persons, four (4) of whom shall be members of the PPFA Board of Directors, and one (1) of whom shall be the Chairperson of the National Executive Directors Council or his or her designee. The four PPFA Board members shall be designated as follows: three by the Chairperson of PPFA, and one by the Affiliate or other organization which requested the hearing.

(2) The Chairperson of PPFA shall designate one of his/her appointees as Chairperson of the Hearing Board. The Chairperson of the Hearing Board shall set the time and place of the hearing, which shall occur within seven (7) business days from receipt of the application for a hearing unless the Affiliate or other organization applying for the hearing requests an extension of films. The Hearing Board shall review the action of the Board of Directors or the order issued by the President of PPFA, as the case may be. The Affiliate or other organization which requested the hearing shall be entitled to appear before the Hearing Board and to be represented by counsel. The Hearing Board may request the appearance before it of any person it deems necessary. The Vice

President for Legal Affairs of PPFA or other counsel shall advise the Hearing Board with respect to the procedures to be observed in the hearing and the Hearing Board shall follow such procedures as are necessary to assure a prompt, fair and expeditious hearing. Within five (5) business days of completion of the hearing, the Hearing Board shall by majority vote either concur in or not concur in the action taken by the Board of Directors or the order issued by the President of PPFA, as the case may be, by written report filed with the Secretary of PPFA and sent by registered mail to the Affiliate or other organization which requested the hearing.

e. Loss of Use of Trademarks.

A former Affiliate or other organization which loses the right to use the Trademarks shall immediately cease use of said Trademarks in any connection whatsoever and shall simultaneously cease to use logos and/or telephone numbers identified with the name "Planned Parenthood." PPFA shall **[000219]** make appropriate arrangements for continuity of patient care.

Section 12. Final Disposition.

Assets remaining to a former Affiliate upon disaffiliation or voluntary or involuntary termination may be retained by the former Affiliate if it continues to be eligible under federal and state laws. If these requirements are not met, the assets shall be transferred at the option of the PPFA Board of Directors in accordance with applicable state and

federal laws, either to PPFA or to another non-profit organization which fulfills such requirements.

Section 13. Responsibilities of the Federation and National Office to Affiliates.

a. Authority.

(1) The Federation's goals and objectives shall be stated in the Strategic Plan as approved by the Membership and updated annually by the PPFA Board of Directors, as an integral part of its planning process.

(2) The Board of Directors shall adopt an appropriate evaluation process to be used by Affiliates in evaluating the performance of the National Office with respect to the goals and objectives of the Strategic Plan.

(3) The Board shall report to the Membership each year on the results of this evaluation.

b. The National Office.

(1) The National Office functions on behalf of Affiliates to provide the leadership required for policy and program initiatives. It also administers the standards mandated by the Membership and supports the growth and development of Affiliates in carrying out the goals and objectives of the Strategic Plan.

(a) The National Office provides a structure that encourages Affiliates to participate in the planning and executing of policies that lead to

achievement of the goals of the Strategic Plan.

(b) The National Office supports the work of Affiliates in providing leadership, support, and services to facilitate the delivery of reproductive health care to all those who want and need it.

(c) Consistent with its fundraising agreements with Affiliates, the National Office shall conduct solicitation of private citizens and organizations for the financial support of its total program.

[000220]

(d) The National Office shall be accountable to Affiliates for the activities it has conducted on their behalf and for the National Program Support collected in its support.

(2) The National Office shall provide guidance and counsel on legal matters of national consequence that protect the tax-exempt status of Affiliates and PPFA.

c. Organizational Standards.

(1) The Federation shall maintain and promote a planning process that encourages Affiliates to measure the impact of the National Office on agreed-to goals and objectives.

(2) The National Office shall have a current affirmative action program which ensures that minority representation on the PPFA staff is reflective of the Civilian Labor Force Data in the recruiting area.

[000221]

ARTICLE XV - AMENDMENT OF BYLAWS

Section 1.

Amendment of Bylaws, including the Standards of Affiliation, may be proposed by the Board of Directors, or by written request of one-third (1/3) of the Affiliates.

Section 2.

These Bylaws maybe amended at any meeting of the Membership by a vote of two-thirds (2/3) of the persons present in person or by proxy and entitled to vote, in the presence of a quorum and provided that notice of the proposed amendment has been sent to all Affiliates and all members of the Board of Directors not less than six (6) weeks before the meeting, and provided that a copy of the proposed amendment shall accompany the notice.

Section 3.

These Bylaws may also be amended by written vote without a meeting of the Membership, provided the amendment has been proposed by the Board of Directors. Notice of the proposal shall be sent to each Affiliate and each member of the Board of Directors, accompanied by a copy of the proposed amendment and a copy of or reference to the provisions of this Section 3.

Two or more amendments which are closely related in subject matter may be grouped together and voted on as if they were a single amendment.

The notice shall specify a period of sixty (60) days from the date on which the notice is mailed, or such longer period as may be fixed by the Board of Directors, within which votes may be cast.

Each Affiliate shall have one vote for each of its memberships unless such Affiliate is(i) on probation for failure to submit its annual audit; (ii) delinquent in payment of its National Program Support as of the final day on which votes may be cast; or (iii) it has been placed on administrative probation by the PPFA Board because its audited financial statements report a deficit in expendable net assets; or (iv) its accreditation has been revoked by the PPFA Board of Directors. Each member of the Board of Directors shall have one vote.

Votes shall be in writing and shall be sent by mail or telegram or otherwise delivered to the principal office of the Federation for the attention of the Secretary, and shall be deemed to have been cast on the date on which they are received at that office.

If two-thirds (2/3) of the eligible votes shall be cast in favor of the proposed amendment, it shall become effective as of the end of such period.

[000222]

ARTICLE XVI - AMENDMENT OF CERTIFICATE OF INCORPORATION

The Certificate of Incorporation of the Planned Parenthood Federation of America, Inc., may be amended at any Annual Meeting of the Membership by a two-thirds (2/3) vote of the members present in person or by proxy, in the presence of a quorum and providing that notice of the proposed revision has been sent to all Affiliates not less than six (6) weeks before the meeting, and providing that a copy of the proposed amendment shall accompany the notice.

[000223]

ARTICLE XVII - PARLIAMENTARY AUTHORITY

Robert's Rules of Order (Newly Revised) shall govern all meetings of the Planned Parenthood Federation of America, Inc. in all cases to which they are applicable and in which they are not inconsistent with these Bylaws.

[000224]

ARTICLE XVIII - INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Federation shall indemnify to the full extent permitted by law against damages, judgments, settlements, costs, charges, and expenses incurred in connection with the

defense of any action, suit, or proceeding or any appeal therefrom, any person or his or her personal representative, made, or threatened to be made, a party to such action, suit, or proceeding, whether civil or criminal, by reason of the fact that such person is or was a Director or officer of the Federation.

[000225]

ARTICLE XIX - DEFINITIONS

ACEC - Affiliate Chief Executives Council (formerly National Executive Directors Council) (See Article IX).

ADA Committee - Affiliate Development and Accreditation Committee.

AGI - The Alan Guttmacher Institute, a Not-for-Profit Corporation for Reproductive Health Research, Policy Analysis and Public . Education; a Special Affiliate of PPFA.

Ex-officio membership - Membership by virtue of an office held in the Federation or another organization as defined in the Bylaws. *An ex-officio* member shall have all the rights and powers of any other Board member.

Honorary membership - In PPFA, restricted to those persons who have served as Chairperson of the Federation in accordance with Article V, Section 2. Such persons shall be honorary members of the Board without vote and shall have the right to receive all communications sent to Board members and to speak at Board meetings.

IPPF/WHR - Western Hemisphere Region of the International Planned Parenthood Federation.

NMC - National Medical Committee.

NNC -National Nominating Committee.

Person of Color - For purposes of these Bylaws, a Person of Color is one who is a member of the Alaskan Eskimo, American Indian, Asian, Black, Hispanic, or Pacific Islander racial groups, as defined in Title 41, Code of Federal Regulations, Section 60-4.3, or such other ethnic community recognized as a racial or ethnic minority by the Equal Employment Opportunity Commission of the United States of America.

PHC - Policyholders Council (see Article X).

VLC - Volunteer Leadership Council of Planned Parenthood (formerly Affiliate Presidents Council) (see Article IX).

[000226]

ARTICLE XX - TRANSITION BYLAWS*

Section 1.

These bylaws of the Planned Parenthood Federation of America (PPFA) were amended by the Membership of PPFA at their annual meeting on the 15th day of November, 1997 (the 1997 Annual Meeting). Because of the nature of the

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* Because of the change in meeting dates, all references in this Article XX to the 1999 Annual Meeting of the PPFA Membership shall be read to mean the 2000 Annual Meeting of the PPFA Membership. All references in this Article XX to the 2000 Annual Meeting of the Membership shall be read to mean the 2001 Annual Meeting of the PPFA Membership.

changes adopted by the members, all amendments approved at the 1997 Annual Meeting other than those addressed in this ARTICLE XX, were effective immediately following that annual meeting. With respect to those amendments addressed below, the transition from the bylaws existing prior to the 1997 Annual Meeting (the Old Bylaws) to those bylaws adopted at that meeting (the New Bylaws) will be affected in accordance with this ARTICLE XX.

Section 2.

Those amendments to the bylaws of PPFA for which transition is addressed by this ARTICLE XX are the following:

(A) Reduction in Number of Elected Members of the Board of Directors of PPFA. Prior to the adoption of the amendment, the Board of Directors of PPFA (the Board) consisted of 35 members, some of whom were elected in varying manners and some of whom were *ex-officio* members of the Board as a result of being elected by or holding a post with another organization. The size of the Board following the transition from that previous position is sixteen (16) directors at large elected by the Membership; two directors from each of the four Regions, one of whom is selected by the Region, and the other is chosen by the National Nominating Committee from among a panel proposed by his/her Region and elected by the Membership; and five (5) ex-*officio* members, as set forth in Article V, Section 2 of these bylaws. Concurrently therewith, the terms of Directors of PPFA were changed from two year terms, with a maximum of three consecutive terms (the Old Limitation), to three year terms with a maximum of two consecutive terms (the New

Limitation). The transition from the Old Bylaws to the New Bylaws with respect to other than *ex-officio* members of the Board shall be as follows:

(1) Existing Directors. The transition to the New Bylaws will not affect the term of office or length of term of any Director whose term of office is in existence at, or begins with, the 1997 Annual Meeting. Thus, all persons who are elected prior to, or whose terms begin with, the 1997 Annual Meeting will be subject to the Old Limitation. All persons elected after the close of the 1997 Annual Meeting as Directors for the first term of a series of consecutive terms will be subject to the New Limitation.

[000227]

(2) Regional Representation. It is the intention of these Transition Bylaws to preserve one regionally elected position and one regionally based, nationally elected position for each Region until the transition to the New Bylaws is complete.

(3) 1997-1998. There is one board position to be filled at the 1997 Annual Meeting. That position will be filled. The Board of Directors will then be comprised (not counting the five (5) *ex-officio* directors) of twelve (12) directors at large elected by the Membership, eight (8) regionally elected directors, and eight (8) directors chosen by the NNC from among panels proposed by the four Regions and

elected by the Membership. All of these directors will be subject to the Old Limitation until they have served for six consecutive years under the Old Limitation or, if earlier, cease to be directors.

(4) 1998-1999. By August 1 of 1998 each Region will designate its directly elected board member. If the designee is an existing board member s/he will serve under the Old Limitation. If the designee is newly elected to the board she will be subject to the New Limitation. Any existing board member who was regionally elected but not designated by the region shall become a director at large ("Redesignated Director"). Under the Old Bylaws, there would be six (6) board positions (of persons who will have served the maximum number of consecutive terms permitted under the Old Limitation) to be filled at the 1998 Annual Meeting of the PPFA Membership. These consist of three (3) at large positions, one regionally elected position, and two regionally based, nationally elected positions. Four of these Vacancies will be filled; two will not be filled. The number of positions for directors at large shall be four (4), less the number of seats held by Redesignated Directors. The Board of Directors will then be comprised (not counting the *ex-officio* members) of thirteen (13) directors at large, seven (7) regionally elected directors, and six (6) regionally based, nationally elected directors. Of these, a maximum of 22 will be subject to the Old

Limitation and at least four (4) will be subject to the New Limitation.

(5) 1999-2000. Under the Old Bylaws, there would be six (6) board positions to be filled at the 1999 Annual Meeting of the PPFA Membership. These consist of two directors at large elected by the Membership, two regionally elected positions, and two regionally based, nationally elected directors. Five (5) of these vacancies will be filled; one will not be filled. Of the five vacancies filled, any vacancies in the regionally elected categories shall be filled first by the Regions and any vacancies in regionally **[000228]** based, nationally elected categories shall be filled next by the NNC first and the remaining positions will be filled by directors at large. The board of directors will be then. comprised (not counting the five *ex-officio* members) of fifteen (15) directors at large, five (5) regionally elected directors, and four (4) regionally based, nationally elected positions. The five newly elected directors will be subject to the New Limitation.

(6) 2000-2001. Under the Old Bylaws, there would be four (4) board positions to be filled at the 2000 Annual Meeting of the PPFA Membership. These consist of (2) directors at large and two regionally elected directors. All four (4) vacancies will be filled. Any vacancies in the regionally elected categories shall be filled first by the Regions, and any vacancies in regionally based, nationally elected

categories shall be filled next by the NNC. The remaining positions will be filled by the NNC with directors at large. The newly elected directors will. be subject to the New Limitation. The Board of Directors will then be comprised (not counting the ex-*officio* members) of sixteen (16) directors at large, four (4) regionally elected board members, and four (4) regionally based,.nationally elected board members.

(7) Subsequent Elections. For all elections after the 2000 Annual Meeting, persons subject to the Old Limitation who reach the end of their term limitations will be replaced with persons who are subject to the New Limitation.

(8) Vacancies. If any person who is serving a term of office as a regionally based, nationally elected director ceases to serve in such capacity before reaching the end of the applicable term limitation, and if that person's departure causes there to be an absence of a director in such capacity in any of the four (4) Regions, that person shall be replaced by the NNC, choosing from a panel proposed by that Region and elected by the Membership. Vacancies among directors at large shall not be filled during the transition period unless they cause the total number of directors to fall below 29.

(9) Terms of Directors under Old Limitation. The term of a Director who under this Article XX does not have a successor shall expire at the time his or her successor would have been elected.

(B) Reduction in the *ex-officio* Members of the Board of Directors of PPFA. One of the amendments to the bylaws of PPFA reduces the number of persons who are members of the Board *ex-officio* positions with other organizations. Under **[000229]** the Old Bylaws, there were two members of the Board who were representatives of the Alan Guttmacher Institute (AGI) and one member of the Board who was a representative of IPPF/WHR. Under the New Bylaws, there is one member of the Board who is a representative of AGI and there is not any representative of IPPF/WHR on the Board. As is the case with respect to elected members of the Board, the transition to the New Bylaws will not affect the term of office or length of term of any *ex-officio* Director whose terra of office is in existence at, or begins with, the 1997 Annual Meeting. After the expiration of the current term of any such person who is serving as an *ex-officio* member of the Board as of the close of the 1997 Annual Meeting, the position of the IPPF/WHR representative will not be filled and only one of the AGI positions will continue to be filled.

(C) Change in the Term of Office of the Chairperson. ARTICLE VI, Section 2 of the Bylaws has been amended to change the term of office of the Chairperson from a one-year term to a two-year term. Such Article also amends the maximum number of consecutive terms of the Chairperson. Under the Old

Bylaws, the Chairperson was limited to serving a maximum of three consecutive one-year terms (the Old Chairperson Limit). Under the New Bylaws, the Chairperson is limited to serving one two-year term and, thereafter, must not serve in that position for a period of at least one year before he or she can be elected to again serve as Chairperson (the New Chairperson Limit). The person who is serving as Chairperson at the August, 1997, meeting of the Board of Directors has served two consecutive one-year terms as Chairperson and is eligible under the Old Bylaws to serve a third consecutive one-year term in such capacity. If such person (but no other) is elected to serve a third consecutive one-year term as Chairperson, then that person shall be subject to the Old Chairperson Limit. Any other person who is elected as Chairperson at the 1997 Annual Meeting, and any person who is subsequently elected to serve as Chairperson, shall serve subject to the New Chairperson Limit.

Section 3.

The provisions of this ARTICLE XX of the Bylaws of PPFA are designed to operate only to effect the transition from the Old Bylaws to the New Bylaws. As such, these provisions shall be self-limiting and self-expunging. Section 2(A) hereof shall expire at the close of the 2000 Annual Meeting of the membership of PPFA. Section 2(B) hereof shall expire at the termination of the maximum limit of the term of any *ex-officio* member of the Board who is serving at, or whose term begins with, the close of the 1997 Annual Meeting. Section 2(C) hereof shall expire at the end of the last consecutive term, whether by expiration or otherwise, of the Chairperson who is serving as Chairperson at the August,

1997, meeting of the Board of Directors of PPFA. A provision of this ARTICLE XX, upon its expiration, shall **[000230]** automatically and without further action by the Board, the membership of PPFA, or any other body, be expunged and deleted from these Bylaws. Upon the expiration of the last provision of this ARTICLE XX to expire, this entire ARTICLE XX shall automatically and without further action by the Board, the membership of PPFA, or any other body, be expunged a/Id deleted from these Bylaws.

[000231]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part I, Line 8A & 8B
06/30/99

SCHEDULE - B

Total -Sales*	$	19,184,824
Less: Cost-Basis		16,992,929
Net Gain/Loss	$	2,191,895

* Sales of Publicly Traded Marketable Securities.

[000232]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part IV, Line 54
06/30/99

SCHEDULE - C

Schedule of Investments & Securities

	1999
Cash & Liquid Investment Funds	2,639,048
U.S. Government Obligations	18,845,546
Common and Preferred Stock	18,876,450
Municipal Bonds	388,115
Corporate Bonds	5,239,224
Other	591,767
Total	46,580,150

[000233]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part I, Line 20
06/30/99

SCHEDULE - D

Other Changes in Fund Balances

Change in value of split-interest agreements		
$(520,287)		
Gain on beneficial interest in perpetual trust		
		527,983
Refund to Donor		(74,511)
Prior period adjustment		40
Total	$	(66,775)

[000234]

See Foldout Exhibit

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

Statement of Functional Expenses
Twelve-months period ended June 30, 1999

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. #13-1644147 SCHEDULE - E

Statement of Functional Expenses

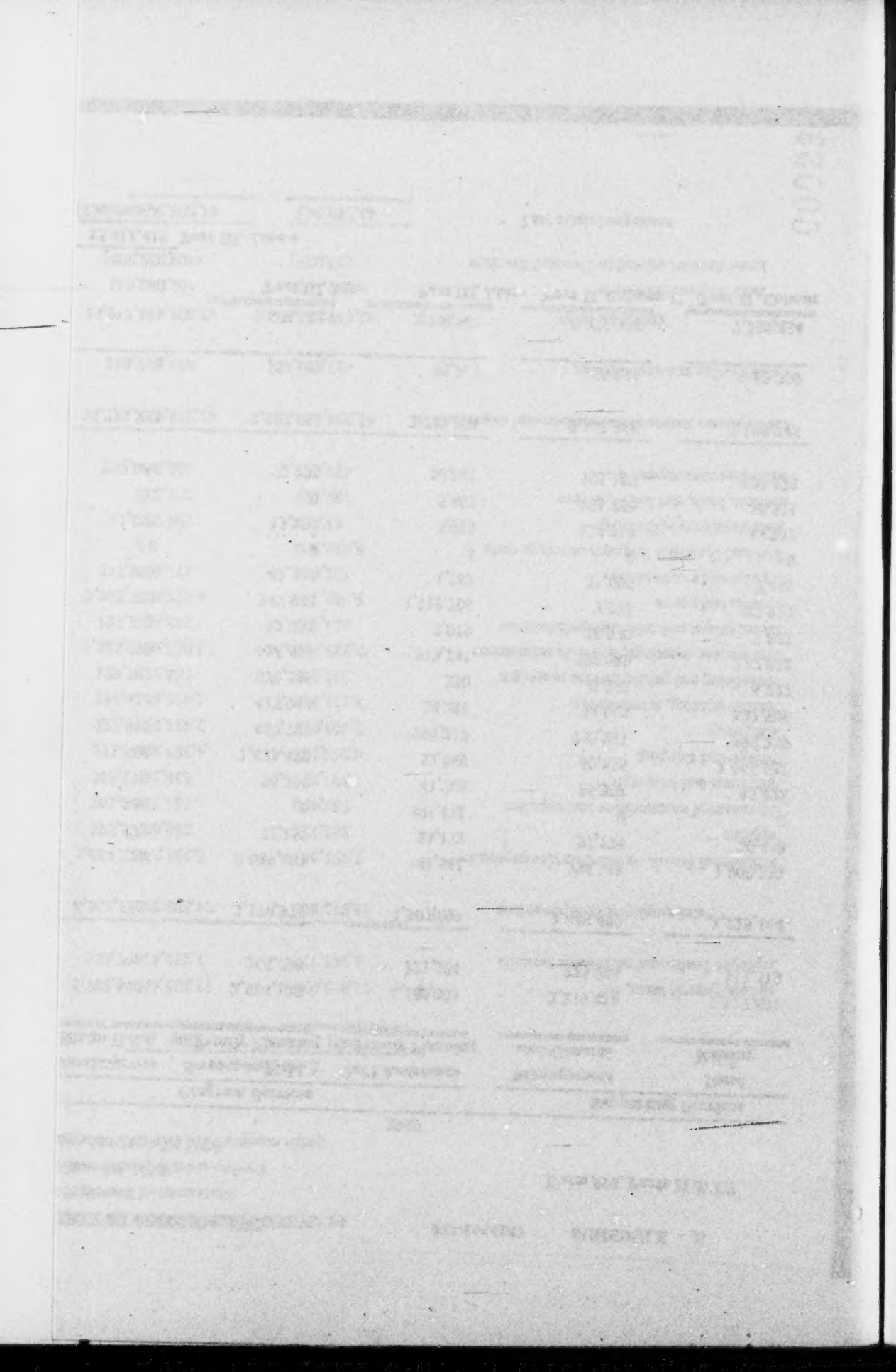
Twelve-months period ended June 30, 1999 Form 990, Parts II & III

(with comparative totals for the year ended June 30, 1998

	Total Expenses		1999				
			Program Services			Supporting Services	
	1998	1999	Grants and Service to Affiliates U.S.A	Service to Field of Family Planning	Int'l Assistance & Family Planning	Management and General	Fund Raising
alaries, payroll taxes, etc.	$ 11,809,037	13,225,484	5,798,449	2,904,185	1,185,805	2,219,414	1,117,631
mployee health and retirement benefits	1,163,771	1,278,418	552,746	266,790	121,284	226,085	111,513
Total employee compensation	12,972,808	14,503,902	6,351,195	3,170,975	1,307,089	2,445,499	1,229,144
rofessional fees & contract service payments	5,951,947	6,531,284	1,654,222	2,089,801	81,541	796,388	1,909,332
upplies	363,728	366,603	195,579	72,250	21,152	57,174	20,448
hipments of commodities and supplies	565,490	655,758	263,846	0	391,912	0	0
elephone and telegraph	577,339	636,168	369,190	96,705	41,749	85,302	43,222
ostage and shipping	4,063,105	4,785,536	531,606	1,473,475	52,969	60,855	2,666,631
ccupancy	2,403,013	2,438,038	522,989	467,789	295,219	752,831	399,210
utside printing, artwork, etc.	1,111,756	1,476,613	334,426	417,944	28,281	74,013	621,949
dvertising and public service messages	345,169	868,172	189,767	670,586	230	3,362	4,227
onferences, meetings, travel & subsistence	2,825,408	3,086,251	1,565,500	686,419	318,231	399,089	117,012
ubscriptions and reference publications	224,323	241,435	125,172	82,313	2,019	28,070	3,861
wards and grants	5,583,704	4,275,688	2,983,722	147,983	1,113,796	7,975	22,212
epairs and maintenance	462,803	471,895	397,907	43,135	1,767	21,606	7,480
National Insurance Program coverage costs	5,056,000	0	0	0	0	0	0
taff development/training	45,618	196,747	41,081	13,209	3,910	124,314	14,233
nterest, bank, and lock box fees	199,129	243,885	157	0	5,487	201,730	36,511
Miscellaneous expenses	475,067	600,084	267,034	70,979	56,641	105,157	100,273
tal expenses before amortization and depreciation	43,226,484	41,378,059	15,793,393	9,503,563	3,721,993	5,163,365	7,195,745
Amortization and depreciation	433,321	430,995	118,718	102,569	36,968	109,031	63,709
Total expenses	$ 43,659,724	41,809,054	15,912,111	9,606,132	3,758,961	5,272,396	7,259,454
Add: Regional Councils	137,400	108,260	108,260	Part III, Line	Part III, Line	Part II, Column C	Part II, Column
Less: Amount related to Donated Services	(57,079)	(408,952)	(408,952)				
			15,611,419	Part III, Line a			
	43,748,045	41,508,362	Part II, Column A				

* List rental expenses.

000234



[000235]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part IV, Line 57B
06/30/99

SCHEDULE - F

Leasehold Improvements and Equipment

Leasehold improvements and equipment at Juno 30, 1999 consist of the following:

	1999
Construction in Progress	$ 214,894
Leasehold Improvement	487,765
Equipment	5,971,487
	6,674,146
Less accumulated depreciation and amortization	(4,470,711)
Total	2,203,435

[000236]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part II, Line 22
06/30/99

SCHEDULE - G

Schedule of Awards & Grants

	1998/99
FPIA Sub-grants	$ 1,003,546
Awards/Grants to Affiliates	730,930
Payments to Affiliated Organizations	138,563
Affiliated Share of Contribution	2,019,986
Awards & Grants to AGI	260,455
Misc. Sub-Grants	122,208
Total	4,275,688

[000237]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part IV, Line 65
06/30/99

SCHEDULE - H

Other Liabilities

Payable to Related Organizations	2,530,264
Amount held for affiliates	1,704,563
Liability under split-interest agreements	4,508,942
Total	8,743,769

[000238]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part V
06/30/99

SCHEDULE - I

LIST OF KEY EMPLOYEES

Name & Address:	Gloria Feldt 810 Seventh Avenue New York, New York 10019
Title & Duration:	President, Full Time
Compensation:	262,223
Benefits:	14,697
Expenses:	25,000

Name & Address:	R. James LeFevre 810 Seventh Avenue New York, New York 10019
Title & Duration:	Chief Operating Officer, Full Time
Compensation:	194,811
Benefits:	11,688
Expenses:	15,000

Name & Address:	Jeffrey D. Mechanick 810 Seventh Avenue New York, New York 10010
Title & Duration:	VP Business Support Services, Full Time
Compensation:	138,038
Benefits:	8,282
Expenses:	0

Name & Address:	Eve W. Paul 810 Seventh Avenue New York, New York 10019
Title & Duration:	Vice President, Legal and General Counsel, Part time
Compensation:	102,441
Benefits:	6,146
Expenses:	0

Name & Address:	Larry Moreland 810 Seventh Avenue New York, New York 10010
Title & Duration:	Chief Financial Officer, Full Time
Compensation:	100,090
Benefits:	0
Expenses:	0

[000239]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
810 SEVENTH AVENUE, NEW YORK, N.Y. 10019

LIST OF PRESIDENT AND VICE PRESIDENTS

Gloria Feldt President	810 Seventh Avenue New York, New York 10019
R. James LeFevre Chief Operating Officer	810 Seventh Avenue New York, New York 10019
Eve W. Paul General Council, Asst. Sec. & V. President Legal Affairs	810 Seventh Avenue New York, New York 10019
Jeffrey D. Mechanick VP Business Support Services Asst. Treasurer	810 Seventh Avenue New York, New York 10019
Larry Moreland Chief Financial Officer Asst. Treasurer	810 Seventh Avenue New York, New York 10019

Barbara Snow
Vice President
Executive Affairs

810 Seventh Avenue
New York, New York 10019

Daniel R. Weintraub
Vice President
Int'l. Programs

810 Seventh Avenue
New York, New York 10019

James Minow
Vice President
Development

810 Seventh Avenue
New York, New York 10019

Suellen Craig
Vice President
Affiliate Services

810 Seventh Avenue
New York, New York 10019

Daniel W. Rutberg
Vice President
Information Technology

810 Seventh Avenue
New York, New York 10019

Bonnie McEwan
Vice President
Communications

810 Seventh Avenue
New York, New York 10019

Michael S. Burnhill M.D., DMSc.
Vice President
Medical Affairs

810 Seventh Avenue
New York, New York 10019

Jacquelyn Lendsey
Vice President
Public Policy — 810 Seventh Avenue
New York, New York 10019

Arnold Breakstone
Vice President
Human Resources — 810 Seventh Avenue
New York, New York 10019

[000240]

Roger Rathman
Vice President
Media Relations — 810 Seventh Avenue
New York, New York 10019

Carrie Spell
Vice President
Organization Development
810 Seventh Avenue
New York, New York 10019

Michael McGee
Vice President
Education — 810 Seventh Avenue
New York, New York 10019

Fannie Porter
Vice President
Evaluation — 810 Seventh Avenue
New York, New York 10019

Jill Cobrin
Vice President Insurance — 810 Seventh Avenue
New York, New York 10019

[000241]

CONFIDENTIAL

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

OFFICERS 1999

Chairperson
Mary Shallenberger
810 Seventh Avenue
New York, New York 10019

Vice Chairperson
Alfredo Vigil, MD
810 Seventh Avenue
New York, New York 10019

Treasurer
Barbara Singhaus
810 Seventh Avenue
New York, New York 10019

Secretary
Alfred Poindexter III, MD
810 Seventh Avenue
New York, New York 10019

Officers & Directors receive no compensation in connection with their services.

[000242]

PPFA BOARD OF DIRECTORS 1999

Sharon W. Allison	810 Seventh Avenue New York, NY 10019
Cindy Ashley	810 Seventh Avenue New York, NY 10019
George Huggins, M.D.	810 Seventh Avenue New York, NY 10019
Suzanne Cluett	810 Seventh Avenue New York, NY 10019
Paula A. Johnson, MD	810 Seventh Avenue New York, NY 10019
Rev. Stgphen J. Mather	810 Seventh Avenue New York, NY 10019
Lee Lee Doyle, Ph.D.	810 Seventh Avenue New York, NY 10019
Bobbie Fueri	810 Seventh Avenue New York, NY 10019
Alan E. Guttmacher, M.D.	810 Seventh Avenue New York, NY 10019
Ann O. Hamilton	810 Seventh Avenue New York, NY 10019

Regina J. Jones	810 Seventh Avenue New York, NY 10019
[000243]	
Richard Jensen	810 Seventh Avenue New York, NY 10019
Marti King-Pringle	810 Seventh Avenue New York, NY 10019
Mark Munger	810 Seventh Avenue New York, NY 10019
Randall L Moody	810 Seventh Avenue New York, NY 10019
Ellen Offner	810 Seventh Avenue New York, NY 10019
John Romo	810 Seventh Avenue New York, NY 10019
Jon T. Wilcox	810 Seventh Avenue New York, NY 10019
Susan C. Price	810 Seventh Avenue New York, NY 10019
J. Tyler Pugh	810 Seventh Avenue New York, NY 10019
Alfredo Vigil, MD	810 Seventh Avenue New York, NY 10019

Almeda C. Riley	810 Seventh Avenue New York, NY 10019
Mary Shallenberger	810 Seventh Avenue New York, NY 10019
Alfredo Vigil, M.D.	810 Seventh Avenue New York, NY 10019

[000244]

Christine Sorensen	810 Seventh Avenue New York, NY 10019
Judy N. Tabb	810 Seventh Avenue New York, NY 10019
Don E. Wineberg	810 Seventh Avenue New York, NY 10019
Barbara Singhaus	810 Seventh Avenue New York, NY 10019
Alfred Poindexter III, MD	810 Seventh Avenue New York, NY 10019

* * * * * * * *

Officers & Directors receive no compensation in connection with their services.

[000245]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part IV-A, Line B-4
06/30/99

SCHEDULE - J

	1998
Change in value of split-interest agreements	(520,287)
Gain on beneficial interest in perpetual trust	527,983
Total	7,696

[000246]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part VI, Line 80
06/30/99

SCHEDULE - K

The Federation is related through overlapping boards/common membership to the following organizations:

International Planned Parenthood Federation - tax exempt
Alan Guttmacher Institute - tax exempt
Planned Protection Insurance Company - taxable*
Planned Parenthood Action Fund, Inc. - tax exempt
Planned Parenthood Foundation - tax exempt

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* The federation has also filed an IRS Form 5471 for this entity.

[000247]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
13-1644147

Form 990, Part VI, Line 90
06/30/99

SCHEDULE - L

LIST OF STATES WHERE FORM 990 IS FILED

States		Agency Where Filed
1.	Alabama	Office of the Attorney General
1.	Alaska	Fair Business Practices Section
2.	Arizona	Secretary of State
4.	Arkansas	Consumer Affairs Division
5.	California	Attorney General's Office, Sacramento
6.	Connecticut	Office of Attorney General, Hartford
7.	Florida	Department of Agriculture & Consumer Serv. Tallahassee
8.	Georgia	Secretary of State
9.	Illinois	Attorney General's Office, Chicago
10.	Indiana	Indiana Department of Revenue
11.	Kansas	Secretary of State
12.	Kentucky	Attorney's General Office, Frankfort
13.	Main	Division of Public Charities
14.	Maryland	Secretary of State, Annapolis

15.	Massachusetts	Department of Attorney General, Boston
16.	Michigan	Department of Attorney General, Lansing
17.	Minnesota	Office of Attorney General, St. Paul
18.	Mississippi	Secretary of State
19.	Nebraska	Secretary of State, Lincoln
20.	New Hampshire	Office of Attorney General, Concord
21.	New Jersey	Dept. of Law & Public Safety, Newark
22.	New Mexico	Registry Charitable Organizations, Santa Fe
23.	New York	Department of State, Albany

[000248]

24.	North Carolina	Division of Facility Services, Raleigh
25.	North Dakota	Secretary of State, Bismarck
26.	Ohio	Attorney General's Office, Columbus
27.	Oklahoma	State Tax Commission, Oklahoma City
28.	Oregon	Office of Attorney General, Portland
29.	Pennsylvania	Department of State, Harrisburg
30.	Rhode Island	Department of Business Regulations
31.	South Carolina	Public Charities Section
32.	Tennessee	Department of State, Nashville

33.	Utah	Division of Consumers Protection
34.	Virginia	Department of Consumer Services
35.	Washington	Secretary of State
36.	West Virginia	Secretary of State, Charleston
37.	Wisconsin	Department of Regulation & Licensing

[000249]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Schedule A, Part III, Line 4b
06/30/99

SCHEDULE - M

Disbursements made by Planned Parenthood Federation of America, Inc., represent payments necessary to meet the objectives of the organization for services rendered or goods received. All disbursements are approved by a responsible official, after review of supporting vendors invoices or other documentation.

Additionally, disbursements to individuals or organizations, if any, are reviewed to determine that they are functioning in the furtherance of out exempt purpose and are operating under Section 501.

[000250]

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part II, Line 42
06/30/99

SCHEDULE - N

Schedule of Depreciation Exp.

	1998
Amortization Exp.	39,704
Depreciation Exp.	391,291
Total	430,995

[000251]

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
 # 13-1644147

Form 990, Part VII, Line 103
06/30/98

SCHEDULE - P

Other Income

Planned Parenthood Federation of America receives income in connection with the use of its donor mailing lists by other organizatiom and companies as reported in Part VII, Line 103. Such income has been ruled by. the United States Tax Court to constitute royalty income not subject to tinrelated business income tax. Planned Parenthood Federation of America, Inc., Petitioner v. Commissioner of Internal Revenue, Respondent, T.C. Memo. 1999-206, Docket No. 13922-97, filed June 22, 1999. The Service did not appeal.

In addition to these transactions, PPFA engages in list exchanges with other organizations and companies in which each is allowed limited use of a portion of the other's list. No revenue or corresponding expense for sueli in-kind exchanges is reported in PPFA's audited financial statements or in the IRS Form 990.

[000252]

Planned Parenthood
Federation of America, Inc.
810 Seventh Avenue
New York, New York 10019
212/541-7800
FAX 212/245-1845

February 14, 2000

The Internal Revenue Service
Ogden, UT 84201-0027

Dear Sir/Madam:

Enclosed please find our 1998 (Fiscal year July 1, 1998 to June 30, 1999) IRS Form 990, with Schedule-A, extension and schedules. If you have any question don't hesitate to call me at (212) 261-4756.

Thank you for your cooperation.

Sincerely,

/s/ _____
Larry Moreland
Chief Financial Officer

Enclosures

cc: Nand Kapoor

[000253]

See Foldout Exhibit

Application for Extension of Time to File Certain Excise, Income, Information, and Other Returns

Form **2758**
(Rev. June 1998)
Department of the Treasury
Internal Revenue Service

Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns

OMB No. 1545-0142

▶ File a separate application for each return.

Please type or print. File the original and one copy by the due date for filing your return. See instructions on back.

Name: PLANNED PARENTHOOD FEDERATION OF AMERICA INC.

Employer identification number: 13-1644147

Number, street, and room or suite no. (or P.O. box no. if mail is not delivered to street address): 810 SEVENTH AVENUE

City, town or post office, state, and ZIP code. For a foreign address, see instructions: NEW YORK NY 10019

Note: *Corporate income tax return filers must use Form 7004 to request an extension of time to file. Partnerships, REMICs, and trusts must use Form 8736 to request an extension of time to file Form 1065, 1066, or 1041.*

1 I request an extension of time until FEBRUARY 15, 2000, to file (check only one):

☐ Form 706-GS(D)	☐ Form 990-T (sec. 401(a) or 408(a) trust)	☐ Form 1120-ND (sec. 4951 taxes)	☐ Form 8612
☐ Form 706-GS(T)	☐ Form 990-T (trust other than above)	☐ Form 3520-A	☐ Form 8613
☒ Form 990 or 990-EZ	☐ Form 1041 (estate) (see instructions)	☐ Form 4720	☐ Form 8725
☐ Form 990-BL	☐ Form 1041-A	☐ Form 5227	☐ Form 8804
☐ Form 990-PF	☐ Form 1042	☐ Form 8069	☐ Form 8831

If the organization does not have an office or place of business in the United States, check this box . . . . . ▶ ☐

2a For calendar year ....., or other tax year beginning JULY 1, 1998 and ending JUNE 30, 1999

b If this tax year is for less than 12 months, check reason: ☐ Initial return ☐ Final return ☐ Change in accounting period

3 Has an extension of time to file been previously granted for this tax year? . . . . . ☐ Yes ☒ No

4 State in detail why you need the extension THE INFORMATION NECESSARY TO PREPARE COMPLETE AND ACCURATE RETURN IS NOT YET AVAILABLE.

5a If this form is for Form 706-GS(D), 706-GS(T), 990-BL, 990-PF, 990-T, 1041 (estate), 1042, 1120-ND, 4720, 8069, 8612, 8613, 8725, 8804, or 8831, enter the tentative tax, less any nonrefundable credits. See instructions. $ 0

b If this form is for Form 990-PF, 990-T, 1041 (estate), 1042, or 8804, enter any refundable credits and estimated tax payments made. Include any prior year overpayment allowed as a credit . . . . . $ 0

c Balance due. Subtract line 5b from line 5a. Include your payment with this form, or deposit with FTD coupon if required. See instructions . . . . . $ 0

Signature and Verification

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete and that I am authorized to prepare this form.

Signature ▶ [signature] Title ▶ CHIEF FINANCIAL OFFICER Date ▶ 11-2-99

FILE ORIGINAL AND ONE COPY. The IRS will show below whether or not your application is approved and will return the copy.

Notice to Applicant—To Be Completed by the IRS

☐ We HAVE approved your application. Please attach this form to your return.

☐ We HAVE NOT approved your application. However, we have granted a 10-day grace period from the later of the date shown below or the due date of your return (including any prior extensions). This grace period is considered to be a valid extension of time for elections otherwise required to be made on a timely return. Please attach this form to your return.

☐ We HAVE NOT approved your application. After considering the reasons stated in item 4, we cannot grant your request for an extension of time to file. We are not granting the 10-day grace period.

☐ We cannot consider your application because it was filed after the due date of the return for which an extension was requested.

☐ Other: _____

Director _____ By: _____ Date _____

If you want a copy of this form to be returned to an address other than that shown above, please enter the address to which the copy should be sent.

Please Type or Print

Name

Number, street, and room or suite no. (or P.O. box no. if mail is not delivered to street address)

City, town or post office, state, and ZIP code. For a foreign address, see instructions.

For Paperwork Reduction Act Notice, see back of form. Cat. No. 11578R Form **2758** (Rev. 6-98)

000253

EXHIBIT 12

STUART E. FAGAN, State Bar No. 152732
3110 Camino Dd Rio South, Suite A203
San Diego, California 92108
Telephone: (619) 528-9600
Facsimile: (619) 528-9675

THOMAS MORE LAW CENTER, *Pro Hac Vice*
PATRICK T. GILLEN (MI Bar #P47456)
JOHN KINDLEY (WI Bar # 1034176)
3475 Plymouth Road, Suite 100
Ann Arbor, Michigan 48105
Telephone: (734) 827-2001
Facsimile: (734) 998-4778

Attorneys for Plaintiffs

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, HALL OF JUSTICE

No. GIC 772552

[Filed August 15, 2001]

AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY-HAWKINS, individually and on behalf of the GENERAL PUBLIC,	)
Plaintiffs,	)

v.)
)
PLANNED PARENTHOOD)
FEDERATION OF AMERICA and)
PLANNED PARENTHOOD OF SAN)
DIEGO AND RIVERSIDE COUNTIES,)
)
Defendants.)
)

COMPLAINT FOR INJUNCTIVE RELIEF

GENERAL CIVIL

COME NOW Plaintiffs, AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY-HAWKINS, individually and on behalf of the GENERAL PUBLIC, and allege the following on information and belief:

I.

INTRODUCTION

1. Plaintiffs brings this action against Defendants to secure a judicial order that prohibits Defendants from making confusing, false, and misleading representations concerning the safety of abortion in general, the safety of abortion vis-a-vis child-birth, and the scientific evidence linking induced abortion and increased risk of breast cancer. Plaintiff brings this suit on behalf of the general public because breast cancer is the leading cause of death among middle-aged women in America and the women of the State of California have been, and will continue to be, harmed by Defendants' confusing, false, and misleading representations on these issues. This case is about science and a patient's right to know the risks of

a medical procedure. Plaintiff seeks the assistance of this Court in order to ensure that no woman receives anything less than truthful and accurate information about the safety of abortion in general, the safety of abortion vis-a-vis childbirth, and the effect of abortion in increasing the risk of breast cancer.

2. Plaintiff Agnes Bernardo is a resident of Chula Vista, California. Bernardo is a women who had an abortion and also has been treated for a non-malignant tumor. Bernardo remains concerned that she will develop breast cancer and believes that women should receive complete information about the studies linking induced abortion and breast cancer before they decide to have an abortion.

3. Plaintiff Pamela Colip is a resident of Loma Linda, California who has had an abortion and is deeply concerned with the abundance of scientific evidence showing that women who have had an induced abortion have a much greater risk of breast cancer. Colip believes that every woman deserves the respect to be fully informed about all of the consequences surrounding an abortion, including the increased risk of breast cancer.

4. Plaintiff Saundra Duffy-Hawkins is a resident of Sacramento, California, who is deeply concerned with cancer risk. Duffy-Hawkins's mother died of cancer. Duffy-Hawkins is predisposed to cancer and has already been treated for cancer twice. Duffy-Hawkins is deeply concerned that women receive information about cancer, including the medical studies showing that induced abortion causes an increased risk of breast cancer. Dully-Hawkins deeply believes that everyone deserves to be given complete, clear, and accurate information about cancer risks prior to making any health care decision.

5. Defendant Planned Parenthood Federation of America ("PPFA") is a corporation organized and existing under the laws of the State of New York. PPFA's national office is located at 810 Seventh Avenue, New York, New York 10019, with a California office located at 333 Broadway, 3rd floor, San Francisco, California 94133. PPFA has affiliated health centers throughout the United States and throughout California which perform abortions. According to PPFA's website, "[i]n 1998, Planned Parenthood provided 167,928 abortions nationwide." On information and belief, PPFA coordinates its activities with its affiliated health centers in California to facilitate the performance of abortions in California. On information and belief, such activities include providing information to the public about abortion for the benefit of itself and its affiliates, providing printed materials to affiliates for distribution to patients and other members of the public, providing telephone and other referrals for abortion services to affiliates, providing operational and procedural manuals for affiliates, providing training for affiliates and providing other forms of assistance to persons, organizations, and entities with which it is affiliated, including Defendant Planned Parenthood of San Diego and. Riverside Counties ("PPSDRC"). On information and belief, PPFA receives fees or other compensation or consideration in return for this assistance and for permission to use the "Planned Parenthood" name. On information and belief, PPFA affiliates must abide by policies established by PPFA for providing abortions, including policies governing statements made to women considering abortion and the general public, information about the safety and risks of abortion and childbirth as well as the link between induced abortion and breast cancer. On information and belief, PPFA calculates its actions with respect to the provision of abortions in California for the purpose of benefitting its affiliates in California including, but not limited to, advertising about abortion in

general as well as statements and information concerning the safety of abortion and the scientific and medical literature concerning the link between induced abortion and breast cancer. On information and belief, affiliates of PPFA, including PPSDRC, are agents of PPFA for the purpose of performing abortions and other abortion-related services. On information and belief, PPFA conducts business in California out of its San Francisco offices including the employment of individuals to conduct its business, contracting for goods and services, and the provision of abortion and abortion-related services. On information and belief, in these and other ways as yet unknown to Plaintiff, PPFA has purposefully directed its activities into California and availed itself of the laws of California such that this Court has jurisdiction over Defendants pursuant to Cal. Cir. Proc. §410.10.

6. Defendant Planned Parenthood of San Diego & Riverside Counties ("PPSDRC") is a California affiliate of PPFA, and a corporation organized and existing under the laws of the State of California. PPSDRC maintains approximately 16 health clinics in San Diego and Riverside Counties. On information and belief, many or all of these clinics perform abortions. PPSDRC's headquarters is located at 1075 Camino del Rio South, Suite 200, San Diego, CA 92108. PPSDRC employs physicians and other clinic personnel as its agents for the purpose of, inter alia, performing abortions. On information and belief, PPSDRC does business in California in general and San Diego and Riverside Counties in particular, including advertising and providing abortions and abortion-related services.

7. PPFA and PPSDRC direct their advertising activities toward people in San Diego and Riverside Counties and provide abortions and abortion-related services to residents of San Diego and Riverside Counties.

II.

GENERAL ALLEGATIONS

8. PPFA operates an Internet website located at www.plannedparenthood.org. This website is accessible to the public at every Interact connected computer terminal in California.

9. One of the purposes of PPFA's website is to facilitate the provision of abortion services. By clicking the "Sexual Health" page from the home page, followed by the "Abortion" page, followed by the "Surgical Abortion Questions and Answers" page, a visitor can then select the question "Where can I get a surgical abortion?", which takes the visitor to a page that answers "Contact Planned Parenthood at 1-800-230-PLAN ...." Alternatively, by clicking the "Local Health Centers" page from the home page, followed by "California," a visitor arrives at a page listing links to California affiliates of PPFA, including PPSDRC. On information and belief, these affiliates provide abortions. At the bottom of this page is the following message: "For medical questions, or to schedule an appointment with the nearest Planned Parenthood center, call toll-free 1-800-230-PLAN."

10. On the "Surgical Abortion – Questions and Answers" page, a visitor may also select the question "What are the health risks of abortion?", which takes the visitor to a page which begins by answering "In the first 20 weeks, abortion is much safer than giving birth," and finishes by explaining "Death occurs in 1 of 100,000 abortions. Childbirth carries seven times more risk."

11. On the "Abortion" page, a visitor may select a "fact sheet" titled "Medical and Social Health Benefits Since Abortion Was Made Legal in the U.S." This "fact sheet" states in part: "Today, abortion is one of the most commonly performed clinical procedures, and the current death rate from abortion at all stages of gestation is 0.6 per 100,000 procedures. This is eleven times safer than carrying a pregnancy to term and nearly twice as safe as a penicillin injection." The "fact sheet" uses the phrase "safe, legal abortion" at least five times.

12. PPSDRC operates an Interact website located at www.planned.org. This website is accessible to the public at every Internet connected computer terminal in California, either directly or by clicking on the link from PPFA's website described in ¶8, supra.

13. By clicking the "e-Clinic" page from PPSDRC's home page, followed by the "Abortion Info" page, followed by the "Commonly Asked Questions" page, a visitor can select the question "Is abortion safe?", which takes the visitor to a page which answers "Yes. Today, abortion is about twice as safe as having your tonsils out and is safer than childbirth. In fact, abortion is 11 times safer than giving birth up to the 18th week of pregnancy. However, the risk of rare, serious complications or death from abortion increases the longer a pregnancy goes on."

14. One of the purposes of PPSDRC's website is to facilitate the provision of abortion services. From the "e-Clinic" page a visitor can select the "Make an Appointment" page, which lists the names, addresses and phone numbers of 16 health clinics maintained by PPSDRC and which states "To make an appointment at any of our clinics, please call 1-800-230-PLAN." This is the same national toll-free number

listed on PPFA's website for making appointments. See supra at ¶ 9.

15. The statements made by PPFA and PPSDRC described herein have caused and contributed to a widespread public perception that abortion is safe, and that it is safer than childbirth.

16. The representations made by PPFA and PPSDRC concerning the safety of abortion in general and the safety of abortion vis-a-vis childbirth are untrue, confusing, and/or misleading for at least the following reasons, which are set forth in the Affidavit of Joel L. Brind, Ph.D., attached hereto as Exhibit No. 1:

a. Defendants' comparison between death rates due to induced abortion and childbirth is untrue and/or misleading because it does not take into account deaths caused by breast cancer due to induced abortion. The mortality rate associated with abortion, in order to be meaningful, must include deaths not only from immediate complications but also deaths that result from indirect complications, such as breast cancer caused by induced abortion; the American Medical Association and the Centers for Disease Control and Prevention define a woman's death as abortion-related if it "resulted from a direct complication of an abortion, an indirect complication caused by the chain of events initiated by the abortion, or the aggravation of a preexisting condition by the physiologic or psychologic effects of abortion regardless of how long it occurred after abortion." See American Medical Association, Council on Scientific Affairs. Induced Termination of Pregnancy Before and After Roe v. Wade: Trends in the mortality and morbidity of women. JAMA 1992; 268; 3231-9.

b. It has long been a matter of medical and scientific consensus that having a first full-term pregnancy before age 30 is protective against breast cancer, while aborting the pregnancy results in the loss of this protective effect. Research shows that even a one year delay of the first full-term pregnancy (such as the delay caused by the decision to have an induced abortion) results in an increased risk of death from breast cancer about ten (10) times greater than the death rate associated with childbirth, which has been estimated by the American Medical Association at 9.1 maternal deaths per 100,000 live births. If first childbirth is delayed by more than one year after the abortion, the risk of breast cancer (and therefore of death from breast cancer) is correspondingly greater.

c. Moreover, independently of the increased risk due to losing a first full-term pregnancy's protective effect described above, the worldwide research studies examining abortion's independent effect on breast cancer risk demonstrate an additional breast cancer risk increase associated with induced abortion, as explained below.

i. A 1996 comprehensive review and meta-analysis of published studies throughout the world which present specific data on induced abortion and the incidence of breast cancer calculated that the risk of breast cancer overall among those women who had an induced abortion was 30% higher than among women who had not had an induced abortion. This increased risk occurs independently of the increased risk caused by the delay of first full-term pregnancy due to a decision to abort. Since an average American woman's lifetime risk of breast cancer is between ten and twelve percent, this 30% increase amounts in absolute terms to at least a 3% (or 3 in 100) excess risk of developing

breast cancer. Given that approximately 1 out of 4 women diagnosed with breast cancer die within five to ten years, this excess absolute risk of three percent means that 3 out of every 400 women (or 750 per 100,000) who have an induced abortion will die from breast cancer attributable to the induced abortion-a far higher death rate than the 9.1 maternal deaths per 100,000 associated with childbirth.

ii. The statistical association between induced abortion and increased risk of breast cancer has an explanation firmly based in biological knowledge, which explains how induced abortion is a cause of breast cancer. It is universally acknowledged that most known risk factors for breast cancer- such as early onset of menstrual cycles or late age at menopause - are attributable to some form of overexposure to the main type of female sex hormone, estrogen. It is also known that the highest levels of natural active estrogen ever to occur in a woman's body are during the first and second trimester of normal pregnancy. This surge of estrogen during pregnancy causes the cells of the breasts to proliferate, i.e., become more numerous. In approximately the last 8 weeks of a full-term pregnancy, other hormones cause these cells to differentiate into structured, milk-producing cells which are resistant to carcinogenic mutation. However, prior to this change, which permanently alters the structure of the breast, the cells are in an undifferentiated state that is vulnerable to carcinogenic mutation. An induced abortion, therefore, increases breast cancer risk in two independent ways: first, by abrogating the protective effect of a full-term pregnancy, and second, by doing so at a time when estrogen overexposure during the first two trimesters

has left the breasts with an abnormally high number of cells which are vulnerable to carcinogenic mutation.

d. These facts show that induced abortion causes an increased risk of breast cancer.

e. These facts show that the death rate from abortion is higher than the death rate from childbirth.

f. These facts show that induced abortion is not "safe," and is not "safer," "much safer," or "11" or "7 times safer" than childbirth.

g. These facts show that induced abortion is not about "twice as safe" as a penicillin injection or having your tonsils out.

h. Defendants' misleading statements and their failure to disclose these facts creates an untrue and/or misleading impression concerning the safety of abortion in general, the safety of abortion vis-a-vis childbirth and other medical procedures, and the scientific/medical literature showing the link between induced abortion and breast cancer.

17. On the "Abortion" page of PPFA's web site, a visitor may select a "fact sheet" titled "Anti-choice Claims About Abortion and Breast Cancer" (referred to hereinafter as "ABC-link fact sheet"). The discussion of scientific studies on the link between induced abortion and increased risk of breast cancer contained in the ABC-link fact sheet is a thoroughly biased, confusing, and misleading presentation of the issue. The presentation consistently omits any mention of the limitations, flaws, and/or criticisms of those five studies which the ABC-link fact sheet characterizes as evidence

against a link between induced abortion and breast cancer; in contrast, the presentation consistently notes limitations, flaws, and/or criticism for every one of the five studies that the ABC-link fact sheet characterizes as providing evidence for the link between induced abortion and breast cancer. This biased presentation creates the untrue and/or misleading impression that the preponderance of the scientific evidence supports the assertion that there is no link between induced abortion and increased risk of breast cancer, when in fact the overwhelming preponderance of the scientific evidence shows that induced abortion is a cause of breast cancer. Moreover, by selecting for discussion 5 studies characterized as disproving the ABC link and 5 studies characterized as proving the ABC link, the ABC-link fact sheet creates the untrue and/or misleading impression that there are as many studies finding evidence against the ABC link as studies finding evidence for the ABC link. In fact, 27 out of 36 studies published to date which present specific data on induced abortion and the incidence of breast cancer report on increase in the risk of breast cancer overall among women who have one or more induced abortions. In addition, the information provided in the ABC-link fact sheet is untrue, confusing, and/or misleading for at least the following reasons:

a. The ABC-link fact sheet states: "In the guise of an ostensible concern for women's health, these ideologues point to inconclusive, and at times flawed, studies for alleged evidence of a possible association, while ignoring or dismissing overwhelming evidence that induced abortion does not place women at greater risk of breast cancer." This statement in the ABC-link fact sheet's discussion is misleading for two reasons: First, it implies that "inconclusiveness" is a particular flaw of studies which show evidence of the ABC link, when in fact, all

epidemiological studies are inconclusive if considered in isolation and only become conclusive when considered in light of the overall findings of studies in the relevant literature. Second, the ABC-link fact sheet's characterization of the association between induced abortion and breast cancer as "possible" is misleading because the fact of an observed association - not a "possible" association - has been reported in most studies.

b. The ABC-link fact sheet states: "Adherents of this theory claim that interruption of the first trimester of a first pregnancy causes a cessation of cell differentiation that may result in a subsequent increase in the risk of cancerous growth in these tissues." This statement is misleading because it is generally accepted by the medical community, not just by "adherents of this theory," that such pregnancy interruption causes a cessation of cell differentiation.

c. The ABC-link fact sheet states: "Attempts to prove this theory, however, have failed." This statement is untrue and/or misleading because 17 independent studies throughout the world have substantiated the theory that induced abortion increases breast cancer risk by reporting positive associations that achieved statistical significance, including the only study yet published specifically commissioned by the National Cancer Institute to investigate the ABC link, the 1994 Daling study. Moreover, the only published controlled experiments designed to test the theory linking termination of pregnancy and breast cancer have confirmed the link between termination of pregnancy and breast cancer.

d. The ABC-link fact sheet states that the 1997 study by Melbye et al., which is a cohort study rather than a

case-control study, "benefitted from its size - 1.5 million women." The statement that the Melbye study "benefitted from its size - 1.5 million women" is therefore untrue and/or misleading because the ABC-link fact sheet notes small sample size as a limitation of many of the studies and repeatedly notes the size of a study or number of subjects throughout its presentation, creating the untrue and/or misleading impression that the strength of the case-control and cohort studies can be compared by a direct comparison of the numbers of subjects observed. In fact, the strengths of case-control and cohort studies are not directly comparable based on the number of subjects observed because cohort studies always require far greater numbers of subjects to achieve the same statistical power as case-control studies. The discussion of the 1989 cohort study by Harris, et al., is untrue and/or misleading for the same reason. In addition, the ABC-link fact sheet's focus on the size of the Melbye study is misleading because the size of the Melbye study was greatly exaggerated by its inclusion of many inappropriate subjects.

e. The ABC-link fact sheet states that the Melbye study avoided "one of the pitfalls observed in some case-control studies-that women with breast cancer were more likely to recall having had an induced abortion than women without breast cancer." This statement is untrue and/or misleading because in fact, only one study (not "some" studies) reported the observation of women with breast cancer being more likely to recall having an abortion than women without breast cancer. In this study, Lindefors-Harris, et al., (1991), in claiming such a significant effect, relied on the dubious notion of "overreporting," i.e., that women with breast cancer had reported abortions that had not actually taken place. Importantly, the research team which had advanced this

notion also retracted that notion of overreporting in a letter published in 1998. Defendants' statement is untrue and/or misleading because it implies that so-called "recall bias" is an observed truth, when in fact credible evidence of recall bias of the type that would produce an overestimation of the relative risk of abortion vis-a-vis breast cancer risk has never been published, and several published studies provide evidence that such recall bias does not occur in studies of the link between induced abortion and breast cancer. The ABC-link fact sheet's discussion of recall bias is also misleading (when considered in context) because immunity from recall bias is raised and treated as a strength of the 1997 Melbye and the 1989 Lindefors-Harris study, which reported no overall risk increase, while immunity from recall bias is not raised and treated as a strength of the 1989 Howe study, which found a positive association between induced abortion and breast cancer and employed a methodology that is not susceptible to recall bias.

f. The ABC-link fact sheet's presentation of the 1997 Melbye study states that the study "found no overall connection" between induced abortion and breast cancer and implies that the study disproves that induced abortion is a cause of breast cancer. This statement and related discussion are untrue, confusing, and/or misleading because they ignore the following ways in which the Melbye study clearly favors the view that estrogen overexposure due to induced abortion causes breast cancer over the view that so-called "recall bias" explains the association between induced abortion and breast cancer:

i. The study reported that "with each one week increase in the gestational age of the fetus... there was a 3 percent increase in the risk of breast cancer," so

that among women who had second-trimester abortions breast cancer risk was higher by more than a third while among women who had abortions after 18 weeks the risk was almost doubled.

ii. This trend of increasing risk with duration of pregnancy, which was itself statistically significant, is described in the Melbye study as in line with the hypothesis that breast cancer risk is increased by the prolonged estrogen exposure of early pregnancy not being followed by the protective hormonal milieu of late pregnancy, i.e., the longer the breasts are exposed to the estrogen surge of pregnancy, the greater the expected risk increase.

iii. Because of this study's cohort design, neither the trend of increasing risk with gestational age of the fetus at time of abortion nor the increased risk among women who had second-trimester abortions found by the Melbye study can possibly be explained by recall bias.

g. The ABC-link fact sheet's characterization of the 1997 Melbye study as one of the strongest available is untrue and/or misleading as to the strength of the Melbye study, given the following defects and limitations of the study:

i. The 1997 Melbye study misclassified about 60,000 women who had had abortions as not having had abortions, and therefore its null overall finding likely resulted from a substantial underestimation of the actual overall relative risk.

ii. The 1997 Melbye study was limited by failing to control for all confounding factors and by a limited follow-up period for part of the cohort.

iii. The 1997 Melbye study commenced its registry of breast cancer cases in 1968, five years before the inception of the abortion registry, violating a fundamental role of epidemiological research procedure (exposure must always precede outcome), and necessarily producing an underestimation of the relative risk.

h. The ABC-link fact sheet cites the 1989 Lindefors Harris study on Swedish women as evidence against a link between abortion and breast cancer but notes none of the limitations and/or flaws of the study. The ABC-link fact sheet's characterization of this study as one of the strongest available is untrue and/or misleading as to the strength of the study because the study estimated (rather than directly counted) the number of women in the cohort, was inexplicably and unjustifiably restricted to those women whose abortion occurred before age 30, had a short follow-up period, assumed that all women in the cohort were alive and living in Sweden at the end of follow-up, and did not adjust for parity and other potential confounders.

i. The ABC-link fact sheet states: "Studies Published During the Past 20 Years Offer Mixed Results." This characterization of the results as "mixed" and related discussion are untrue, confusing, and/or misleading because they include studies which failed to distinguish between induced and spontaneous abortion, even while acknowledging that induced and spontaneous abortions affect a woman's body differently. In this regard, the

ABC-link fact sheet is also misleading when it presents the findings of the 1986 Hadjimichael study, which deals only with spontaneous abortions, as if that study were relevant to the increased risk of breast cancer caused by induced abortions. It is generally accepted that induced and spontaneous abortions must be studied separately in order to isolate the effects of induced abortion on breast cancer. By including these irrelevant studies, the ABC-link fact sheet obscures the fact that the overwhelming preponderance of the scientific evidence contained in relevant studies shows that induced abortion is a cause of breast cancer.

j. The ABC-link fact sheet states that before the 1997 Melbye study, "the body of published research showed inconsistent and inconclusive evidence – some found abortion to have a protective effect, others found a slightly elevated risk." This statement is untrue and/or misleading because in fact seven pre-1997 studies found a more than twofold overall elevated risk of breast cancer from induced abortion, which cannot be accurately characterized as a "slightly elevated risk."

k. The ABC-link fact sheet states that the 1996 Brind review and meta-analysis "calculated that induced abortion places women at a slightly increased risk for developing breast cancer." This statement is untrue and/or misleading because in fact the meta-analysis reported an overall risk increase of thirty percent, which is not- and was never characterized by Brind, et al., as - a slight risk increase. In fact, Dr. Stuart Donnan, the editor-in-chief of the journal which published the meta-analysis, noted that the association documented in the meta-analysis "adds up to a large absolute increase in risk with a very high prevalence of the underlying factor."

l. The ABC-link fact sheet states that the 1994 Daling study "was susceptible to reporting bias, since a breast cancer diagnosis may influence a woman's recall or disclosure of her reproductive history." This statement is untrue and/or misleading because it fails to explain that the study explicitly tested for reporting (or recall) bias and found none.

m. The ABC-link fact sheet states that the authors of the 1994 Daling study "reported that the study's limitations 'argue against a firm conclusion at this time' and called for further research." This statement is untrue, confusing, and/or misleading because the phrase it selects for quotation (from the Daling study) is taken out of context. The phrase selected for quotation referred only to a particular subgroup of the study (i.e. those women with a history of abortion and a family history of breast cancer). The authors-in characterizing their overall results-concluded to the contrary, as follows: "Our data support the hypothesis that an induced abortion earl adversely influence a woman's subsequent risk of breast cancer." Therefore, the ABC-link fact sheet is untrue and/or misleading because it misrepresents the conclusion of the study.

n. The ABC-link fact sheet states that a family history of breast cancer is associated with increased breast cancer risk, but does not mention the studies indicating a synergism between family history and induced abortion. This discussion is misleading because any discussion on induced abortion as a risk factor for breast cancer which mentions family history as a risk factor must, in order to accurately treat the role of family history as a risk factor, include those studies finding a synergism between a family history of breast cancer and induced abortion. These

studies find a significant increase in the risk of breast cancer in women who have both a family history of breast cancer and an induced abortion.

o. The ABC-link fact sheet characterizes dietary fat as a risk factor for breast cancer. The characterization of dietary fat as a risk factor, especially when coupled with the representation that induced abortion is not a risk factor, is untrue, confusing, and/or misleading because the evidence linking induced abortion with increased risk of breast cancer is much stronger than the evidence linking dietary fat with increased risk of breast cancer.

p. The ABC-link fact sheet states that "[t]he link between induced abortion and breast cancer is a theory whose principal promoters oppose abortion regardless of its safety." This statement is untrue and/or misleading because it implies that only those who oppose abortion acknowledge the credibility of the link between induced abortion and breast cancer. On the contrary, many of the scientists who conducted the studies finding a link between induced abortion and breast cancer do not oppose abortion.

q. The ABC-link fact sheet concludes: "The Planned Parenthood Position is That Abortion Poses no Demonstrated Health Risks Because the research community has not reached a consensus on breast cancer and abortion, Planned Parenthood advises women who are considering terminating a pregnancy that there is no currently demonstrated health risk from abortion that would warrant basing a decision on that factor alone." On information and belief, the explicit positions and policy embodied in these statements set and fairly represent the policy and practice for all PPFA affiliates, including

PPSDRC and PPFA's other California affiliates. These statements are untrue, confusing, and/or misleading because breast cancer is indeed a demonstrated health risk of induced abortion.

r. By Clicking the "Sexual Health" page from PPFA's home page, followed by the "Abortion" page, followed by the "Choosing Abortion-Questions and Answers" page, a visitor can then select the question "Does abortion cause breast cancer?", which takes the visitor to a page that answers "No. But abortion does not offer the same protection against breast cancer as a full term pregnancy." This statement is untrue and/or misleading because it is self-contradictory; on the one hand, the statement represents that induced abortion does not cause breast cancer; on the other hand, it acknowledges that induced abortion is a cause of breast cancer insofar as it removes the protection against breast cancer to be gained by completing the pregnancy already in progress. See ¶ 6b, supra. Moreover, this unqualified statement that abortion does not cause breast cancer is untrue, confusing, and/or misleading because the overwhelming preponderance of the scientific evidence indicates that induced abortion does increase the risk of breast cancer, independently of the loss of the protective effect. See ¶ 6c supra.

s. By clicking the "e-Clinic" page from PPSDRC's home page, followed by "Abortion Info" page, followed by the "Commonly Asked Questions" page, a visitor can select the question "What about future pregnancies?", which takes the visitor to a page which contains the following statement: "Does abortion cause breast cancer? No, but abortion does not offer the protection against breast cancer that having several pregnancies does." This statement is untrue, confusing, and/or misleading because

it is self-contradictory; on the one hand, the statement represents that induced abortion does not cause breast cancer; on the other hand, it acknowledges that induced abortion is a cause of breast cancer insofar as it removes the protection against breast cancer to be gained by completing the pregnancy already in progress. See ¶16b, supra. Moreover, this unqualified statement that abortion does not cause breast cancer is untrue, confusing, and/or misleading because the overwhelming preponderance of the scientific evidence indicates that induced abortion is a cause of breast cancer independently of the loss of the protective effect. See ¶16c, supra. It is also untrue and/or misleading to state that abortion does not offer the protection against breast cancer that having "several" full-term pregnancies does, because it is universally acknowledged that the most important element of the protective effect of full term pregnancy is the age at which the woman has her first full term pregnancy, not the number of pregnancies. The PPSDRC website is also untrue, confusing, and/or misleading because it indicates that abortion is safe and fails to provide women inquiring about abortion and abortion-related services with truthful and accurate information relating to the medical/scientific literature showing the link between induced abortion and breast cancer.

18. On information and belief, clinic personnel at PPFA affiliates, including PPSDRC and PPFA's other California affiliates, make statements that are similar to those made on PPFA's and PPSDRC's websites and described herein, supra, concerning the safety and risks of abortion and childbirth to women considering abortion who telephone or physically visit the affiliates.

19. The statements described supra are made by PPFA and PPSDRC with intent directly or indirectly to provide abortions and abortion-related services.

20. The statements described supra are likely to confuse and mislead reasonable members of the public as to the safety of abortion, the safety of abortion vis-a-vis childbirth, and the medical/scientific studies showing the link between induced abortion and increased risk of breast cancer.

III.

FIRST CAUSE OF ACTION

(Against Planned Parenthood Federation of America and Planned Parenthood of San Diego and Riverside Counties)
(Violations of Business and Professions Code Section 17200)

21. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 20 of their Complaint.

22. Defendants' acts and practices violate Section 17200 of California's Business and Professions Code because Defendants' statements are unfair, incomplete, confusing, and misleading and cause women to make critical health care decisions without full, clear, complete, and accurate information about the safety of abortion, the safety of abortion vis-a-vis childbirth, and the scientific/medical literature showing the link between induced abortion and breast cancer.

23. The unlawful, unfair, confusing, and misleading statements/advertisements of the Defendants are a direct and proximate cause of an ongoing harm to members of the public

who are being offered a procedure that has critical consequences for their health based on information that is confusing, incomplete, and misleading with respect to the safety of the procedure, its consequences for their health, and the need for ongoing medical monitoring and care that is caused by the procedure.

SECOND CAUSE OF ACTION

(Against Planned Parenthood Federation of America and Planned Parenthood of San Diego and Riverside Counties)
(Violations of Business and Professions Code Section 17500)

24. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 23 of their Complaint.

25. By making the statements alleged herein, Defendants PPFA and PPSDRC, with intent to perform services, have disseminated before the public statements concerning those services which are untrue and/or misleading, and which are known, or which by the exercise of reasonable care should be known, to be untrue and/or misleading, thereby committing acts of untrue and/or misleading advertising and violating Business and Professions Code section 17500.

26. The unlawful, untrue, unfair, confusing, and/or misleading statements/advertisements of the Defendants are a direct and proximate cause of an ongoing harm to members of the public who are offered a procedure that has critical consequences for their health based on information that is confusing, incomplete, and misleading with respect to the safety of the procedure, its consequences for their health, and

the need for ongoing medical monitoring and care that is caused by the procedure.

IV.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

1. Plaintiffs request that the Court issue an injunction restraining Defendants PPFA, PPSDRC, and their agents from making the untrue and/or misleading statements described herein including, but not limited to, the statements that abortion is safe and/or that it is safer than childbirth;

2. Plaintiffs request that the Court issue an injunction restraining PPFA, PPSDRC, and their agents from performing abortions and abortion-related services unless they first provide the following information prior to scheduling, and/or accepting any payment for, abortions or abortion-related services to be rendered in California:

> A large body of published medical research implicates induced abortion as a cause of breast cancer in two ways.
>
> First, abortion does not offer the protection against breast cancer provided by a first full-term pregnancy before age 30. Therefore, having an abortion results in a higher risk of getting breast cancer later in life than carrying the pregnancy to term for women under age 30 who have not yet had a full-term pregnancy.
>
> Second, having an abortion increases a women's risk of breast cancer even more than the risk is increased

by delaying a first full-term pregnancy. Evidence of this additional increased breast cancer risk has been observed in most epidemiological studies in American women. There is also evidence of an even larger increase in breast cancer risk among women who have an induced abortion while a teenager, and among women who have both a family history of breast cancer and an induced abortion.

For more information about breast cancer please contact your physician;

3. Plaintiffs request that the Court issue an injunction requiring Defendants to provide all of their patients who received an induced abortion in California with a notice of the increased risk of cancer described herein so that these patients are aware of their increased risk and can seek appropriate medical monitoring and treatment. The notice should read as follows:

Our records show that you received an abortion at our clinic. We are sending you this notice to inform you that a large body of published medical research implicates induced abortion as a cause of breast cancer in two ways.

First, abortion does not offer the protection against breast cancer provided by a first full-term pregnancy before age 30. Therefore, having an abortion results in a higher risk of getting breast cancer later in life than carrying the pregnancy to term for women under age 30 who have not yet had a full-term pregnancy.

Second, having an abortion increases a women's risk of breast cancer even more than the risk is increased by delaying a first full-term pregnancy. Evidence of

this additional increased breast cancer risk has been observed in most epidemiological studies in American women. As of June 2001, 17 independent studies in the worldwide literature have substantiated the theory that induced abortion increases breast cancer risk by reporting positive associations with statistical significance, a technical term meaning at least 95% certainty that the association between induced abortion and increased risk of breast cancer is not due to chance. There is also evidence of an even larger increase in breast cancer risk among women who have an induced abortion while a teenager, and among women who have both a family history of breast cancer and an induced abortion.

If you have had an abortion you should be aware of this increased risk of breast cancer and seek appropriate medical screening and care. For more information about these studies addressing the link between induced abortion and breast cancer please contact your physician;

4. Costs and fees as allowed by law; and

5. Such other and further relief as the Court may deem appropriate.

Dated: August 14, 2001

By: /s/ _____

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EXHIBIT 13

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, HALL OF JUSTICE

[Dated August 14, 2001]

AGNES BERNARDO, PAMELA COLIP, and SAUNDRA DUFFY-HAWKINS, individually and on behalf of the GENERAL PUBLIC, Plaintiffs,	)
v.	)

PLANNED PARENTHOOD)
FEDERATION OF AMERICA and)
PLANNED PARENTHOOD OF SAN)
DIEGO AND RIVERSIDE COUNTIES,)
)
Defendants.)
_____)

STATE OF NEW YORK)
) ss
COUNTY _____)

AFFIDAVIT OF JOEL L. BRIND, PH.D.

GENERAL CIVIL

JOEL L. BRIND, PH.D., deposes and says the following:

1. I am a Professor of Biology, with specialization in Human Biology and Endocrinology, in the Department of Natural Sciences of Baruch College of the City University of New York, where I have taught full time since 1986. I have also held adjunct positions in the Department of Obstetrics, Gynecology and Reproductive Medicine of Mount Sinai School of Medicine, and in the Department of Medicine, Division of Endocrinology and Metabolism of Beth Israel Hospital in New York City. I am also self-employed part time as a medical consultant. I am a member in good standing of the Endocrine Society, and wasa member of the Editorial Board of the professional journal Steroids from 1993 to 1999.

2. I received a B.S. in Biology from Yale College, New Haven, CT in 1971, a M.S. in Biology from the Graduate School of Arts and Sciences of New York University in 1977, and from the same school, a Ph.D. in Basic Medical Sciences

(major field - Biochemistry, minor fields - Physiology and Immunology) in 1981.

3. Between 1972 and 19861 was employed full-time as a laboratory researcher, my specialty being the measurement of reproductive hormones and their metabolites, particularly as they relate to aging and diseases, including breast cancer. I have participated as a co-author in several epidemiological studies.

4. Since 1992 my research has focused on the link between induced abortion and breast cancer. In 1996, with co-authors from the Pennsylvania State College of Medicine in Hershey, PA, I published a paper entitled: "Induced abortion as an independent risk factor for breast cancer: a comprehensive review and meta-analysis," in the British Medical Association's *Journal of Epidemiology and Community Health (JECH:* Brind *et al.,* 1996). A digest of this paper was also published in *Family Planning Perspectives* in 1997. The following issue of the *JECH* contained an editorial (Donnan, 1996) about our review and meta-analysis. Specifically, Dr. Donnan noted that the association we documented (30% increased risk) "adds up to a large absolute increase in risk with a very high prevalence of the underlying factor." Dr. Donnan also underscored the need for women to be made aware of the abortion-breast cancer link, calling .for those who are "pro-choice" to be also "pro-information". Most recently, our 1996 review and meta-analysis was validated by the Royal College of Obstetricians and Gynaecologists (UK) in its March, 2000 "Guideline" on "The Care of Women Requesting Induced Abortion." Specifically, the Guideline noted: "The Brind paper had no major methodological shortcomings and could not be disregarded." I have also published numerous articles on this subject in the lay press, as well as many letters in peer-reviewed medical

journals including the *New England Journal of Medicine,* (Brind and Chinchilli, 1997), The *Lancet* (Brind and Chinchilli, 1999), and the *Journal of the National Cancer Institute (Brind et al.,* 1997). From 1997 to 2001 I edited and published the *Abortion-Breast Cancer Quarterly Update,* a publication for doctors and other health professionals. I have also given credit-bearing lectures at various medical centers and conferences for medical associations and associations of allied health professionals, on the topic of the link between induced abortion and breast cancer, most recently this past May in the Department of Obstetrics and Gynecology at the Robert Wood Johnson medical center of the University of Medicine and Dentistry of New Jersey.

5. I have previously served as an expert witness concerning the link between induced abortion and breast cancer, most recently on behalf of the State of Florida in defense of its parental notification statute in 1997. I submit this affidavit in support of the Plaintiffs herein. The opinions I express herein are based on my personal knowledge and expertise, and study of the relevant peer-reviewed medical literature.

Biological Basis of the Abortion - Breast Cancer (ABC) Link

6. As with any exposure which is deemed to be a risk factor for a given disease, it is crucial that biological evidence corroborate the statistical associations determined by epidemiological studies. Otherwise, it is possible that even a consistent and reproducible finding may be due to some form of bias or to one or more "confounding variables." However, in the case of induced abortion and breast cancer, the connection has a sound basis in biological knowledge:

a. **Experiments in laboratory animals:** A study by Russo and Russo (1980) is widely – if not universally – regarded as definitive. In a controlled experimental setting, several pregnancy-related variables were compared to investigate their effect on the development of breast cancer in rats exposed to a standard dose of a known chemical carcinogen. Thus, in a group of 15 virgin rats, 10 developed breast cancer after exposure to the carcinogen, whereas all nine rats avoided breast cancer who were allowed to get pregnant and bear a litter of pups at a young age. In marked contrast, among rats allowed to get pregnant but whose pregnancies were surgically aborted, 7 of 9 developed breast cancer. This trend of animals with aborted pregnancies having not lower, but even higher rates of breast cancer than animals with no pregnancies at all, was completely consistent with the epidemiological findings of MacMahon *et al.* (1970), but in a controlled experimental setting.

b. **Examination of age- and pregnancy-related changes in rat and human breast tissue:** Russo and Russo (1980) also microscopically examined the breast tissue of the different groups of rats, and were able to correlate the development of breast cancer with the failure of breast tissue to differentiate into mature, milk-producing structures in the absence of a full-term pregnancy. It is undisputed that more undifferentiated, growing tissues are more vulnerable to the effects of carcinogens, compared to differentiated cells, whose growth potential (and hence, cancer potential) has been switched off. The same group of researchers validated their microscopic findings on the breast tissue of rats with a subsequent study of normal human breast tissue obtained from mammoplasty specimens (Russo *et al;* 1992).

c. **Knowledge of hormonal factors and breast cancer:** It is universally acknowledged that most known risk factors for breast cancer are attributable to some form of overexposure to the main type of female sex hormone, estrogen. It has been known for many years that estrogens – both natural and synthetic – are strong growth promoters of both normal and malignant breast tissue.

d. **Knowledge of hormonal changes in a woman's body during pregnancy:** It is known that the highest levels of natural active estrogen ever to occur in a woman's body are during the first and second trimester of normal pregnancy. Increased ovarian production of estrogen is measurable within a few days after conception (Stewart *et al.*, 1993), and rises by 2000% by the end of the first trimester (Kunz and Keller, 1976; and Witt *et al.*, 1990), by which time it is 600% to 700% higher than it ever gets – even at the preovulatory peak – in the non-pregnant state.

e. **Hormonal differences between normal pregnancies and pregnancies which abort spontaneously (i.e., miscarry):** It has been long established (Ktmz and Keller, 1976;Witt *et al.*,1990) that most pregnancies which abort spontaneously are characterized by subnormal estrogen production by the ovaries, such that the estrogen level in the mother's blood usually never even reaches peak non-pregnant levels. This is matched by the consistent epidemiological finding of no significantly increased risk attributable to spontaneous abortions.

Epidemiological Evidence of the Abortion - Breast Cancer (ABC) Link

7. One way that abortion raises the risk of breast cancer in young women (i.e., under age 30) who have not yet had a full term pregnancy, is by postponing (in some cases forever) the age at which her first full term pregnancy occurs. This may also be described as induced abortion's effect in abrogating the protective effect (against breast cancer) a young woman's first full-term pregnancy would otherwise have were she not to abort. It is important to note that this risk-increasing effect of abortion is universally accepted in the medical and medical research communities, having been demonstrated in many (though not all) studies over the last three plus decades. The study generally regarded as the definitive, landmark study was conducted by the World Health Organization in seven different study centers around the world (including the US), and published in 1970 (MacMahon *et al,* 1970). In addition, although these authors did not obtain specific data on induced abortions, they noted – in 4 of the 7 study centers – that the breast cancer data "were in the direction which suggested increased risk associated with abortion - contrary to the reduction in risk associated with full-term births." In other words, they observed that, while full-term pregnancies lower breast cancer risk, interrupted pregnancies, instead of lowering risk by a lesser degree, go the other way and raise the risk of subsequent breast cancer.

8. Induced Abortion as an Independent Risk Factor for Breast Cancer

The effect of induced abortion in raising the risk of breast cancer beyond the risk increase attributable to its effect in delaying the first full-term pregnancy is attributable to the extremely high exposure of the breast tissue to ovarian

estrogen during the first two trimesters of pregnancy. The medical literature has documented this independent effect since at least 1957. To date a total of 36 independent studies (some appear in more than one published report)have been published worldwide which present specific data on induced abortion and the incidence of breast cancer. Seventeen of the 36 studies report a statistically significant (i.e., greater than 95% certainty that the finding is not due to chance) increase in the risk of breast cancer overall among women who have one or more induced abortions (Segi *et al.*,1957; Nishiyama, 1982; Le *et al.*, 1984; Rosenberg *et al.*, 1988; Howe *et al.*, 1989; Laing *et at.*;1993; Laing *et al.*,1994; Daling *et al.*, 1994; Lipworth *et al.*, 1995; Luporsi, 1995; Rohan *et al.*,1995; Bu *et al.*,1995; Rookus and van Leeuwen,1996; Newcomb *et al.*,1996; Daling *et* al.,1996; Talamini *et al.*,1996; and Palmer *et al.*, 1996). Ten of the 36 studies report a risk increase which does not achieve statistical significance (Watanabe and Hirayama,1968; Dvoirin and Medvedev,1978; Pike *et al.*,1981; Brinton *et al.*, 1983; Hirohata *et al.*, 1985; Ewertz and Dully,1988; Andrieu *et al.*, 1994; Wu *et al.*,1996, Marcus *et al.*, 1999, and Lazovich *et al.*, 2000). Three of the 36 studies report no tendency for increased or decreased risk (Moseson *et* al.,1993; Melbye *et al.*, 1997; and Sanderson *et al.*, 2000). Three of the studies report a decrease in risk which does not achieve statistical significance (La Vecchia *et al.*, 1993; Harris *et al.*,1989/Adami *et al.*, 1990; and Newcomb and Mandelson, 2000). Three of the studies report a statistically significant decrease in risk. One is Burany (1979), and the most recent is Goldacre *et al.* (2001). The third, Zaridze *et al.* (1988), is reported only as part of a meta-analysis (Andrieu *et al.*, 1995), and is described as a study in progress which is unpublished. It should be noted that no accepted risk factor for breast cancer – even if universally acknowledged – is universally observed. When the data for all 36 studies are

compiled, using either a weighted or unweighted average, a highly significant risk increase of 30% is found.

9. In studies on American women (including women of African, Asian and European ancestry), the effect of induced abortion on the risk of future breast cancer is even more clear-cut. Out of a total of 15 studies, 8 show a statistically significant overall increased risk (Rosenberg *et al.*,1988; Howe *et al.*,1989; Laing *et al.*,1993; Laing *et al.*, 1994; Daling *et al.*,1994; Newcomb *et al,* 1996; Daling *et al.*, 1996; and Palmer *et al.*,1996). Five of the studies show an overall risk increase which does not achieve statistical significance (Pike *et al*,1981; Brinton *et al.*,1983; Wu *et al.*, 1996; Marcus *et al.*, 1999, and Lazovich *et al.*, 2000). Only one study – Moseson *et al.* (1993) shows no tendency for increased or decreased risk, and one (Newcomb and Mandelson, 2000) shows a decreased risk which does not achieve statistical significance. When the data from all 15 American studies are compiled, a highly significant, average 30% overall risk increase for one or more induced abortions is found.

10. In addition to the overall, relatively low magnitude association observed between induced abortion and breast cancer, some studies have documented much stronger associations in particular subgroups of women. In particular, in the only study yet published which was specifically commissioned by the National Cancer Institute to investigate the ABC link, Daling *et al.* observed relative risks greater than 2.0 for women who had had an abortion before age 18 or over age 30. Daling *et al.* (1994) also noted that these higher risks correlated with age-related changes in human breast tissue as reported by Russo *et al.* (1992). In addition, Daling *et al.* found that among women with any family history of breast cancer, the risk of breast cancer was 80% (as opposed

to 50% for women in general) greater for women who'd had an abortion. Most striking was their finding of an interaction of the variables of age, family history and abortion. They reported that all 12 subjects who'd had an abortion before age 18 and who also had a family history of breast cancer ended up in the cancer group (i.e., none were found among cancer-free control subjects). Thus, the relative risk was incalculably high. The synergy between abortion and family history was also reported by Andrieu *et al,* (1995) in their review of data from five different studies.

Defendant's Statements

11. The comparison between death rates due to induced abortion and childbirth in Defendants' statements described in Paragraphs 10, 11, and 13 of the Complaint is untrue and/or misleading because it does not take account of deaths caused by breast cancer due to induced abortion. The mortality rate associated with abortion, in order to be meaningful, must include deaths not only from immediate complications but also deaths that result from indirect complications, such as breast cancer caused by induced abortion. According to the American Medical Association and the Centers for Disease Control and prevention, a woman's death is abortion-related if it "resulted from a direct complication of an abortion, an indirect complication caused by the chain of events initiated by the abortion, or the aggravation of a preexisting condition by the physiologic or psychologic effects of abortion regardless of how long it occurred after abortion." *See* American Medical Association, Council on Scientific Affairs. Induced termination of pregnancy before and after Roe v. Wade" Trends in the mortality and morbidity of women. JAMA 1992; 268:3231-9.

12. As discussed herein in my 1996 "comprehensive review and meta-analysis" of the relevant worldwide studies then published calculated that the risk of breast cancer among those women who had experienced an induced abortion was 30% higher than among women who had not, independently of the effect due to abortion's delay of first full-term pregnancy. Since an average American woman's lifetime risk of breast cancer is between ten and twelve percent, this 30% increase amounts in absolute terms to at least a three percent, or 3 in 100, excess risk of developing breast cancer. Given that approximately 1 out of 4 women diagnosed with breast cancer die within five to ten years, this excess absolute risk of three percent means that 3 out of every 400 (or 750 per 100,000) women who have an induced abortion will die from breast cancer attributable to the abortion- a far higher death rate than the 9.1 maternal deaths per 100,000 associated with childbirth.

13. Moreover, as discussed herein, having a first full-term pregnancy before age 30 is protective against breast cancer, while aborting the pregnancy results in the loss of this protective effect. Research shows that even a one year delay of the first full-term pregnancy including through abortion) results in an increased risk of death from breast cancer about ten (10) times greater than the death rate associated with childbirth, which has been estimated by the American Medical Association at 9.1 maternal deaths per 100,000 live births. If first childbirth is delayed by more than one year after the abortion, the risk of breast cancer (and therefore of death from breast cancer) is correspondingly greater.

14. These facts show that, contrary to Defendant's statements as described in the Complaint, the death rate from induced abortion is higher than the death rate from childbirth.

15. These facts show that, contrary to Defendant's statements as described in the Complaint, induced abortion is not "safe," and is not "safer," "much safer," or "11 " or "7 times safer" than childbirth.

16. The ppfa fact sheet titled "anti-choice claims about abortion and breast cancer" [hereinafter, "abc-link fact sheet"], referenced in the complaint, is a thoroughly biased and misleading presentation of the scientific literature on this subject. The presentation consistently omits any mention of the limitations, flaws, and/or criticisms of those five studies which the ABC-link fact sheet characterizes as evidence against a link between induced abortion and breast cancer; in contrast, the presentation consistently notes limitations, flaws, and/or criticism for every one of the five studies that the ABC-link fact sheet characterizes as providing evidence for the link between induced abortion and breast cancer. This biased presentation creates the untrue and/or misleading impression that the preponderance of the scientific evidence supports the assertion that there is no link between induced abortion and increased risk of breast cancer, when in fact the overwhelming preponderance of the scientific evidence shows that induced abortion is a cause of breast cancer. Moreover, by selecting for discussion 5 studies characterized as disproving the ABC link and 5 studies characterized as proving the ABC link, the ABC-link fact sheet creates the untrue and/or misleading impression that there are as many studies finding evidence against the ABC link as studies finding evidence for the ABC link. In fact, 27 out of the 36 studies published to date which present specific data on induced abortion and the incidence of breast cancer report an increase in the risk of breast cancer overall among women who have one or more induced abortions.

17. The ABC-link fact sheet states: "In the guise of an ostensible concern for women's health, these ideologues point to inconclusive, and at times flawed, studies for alleged evidence of a possible association, while ignoring or dismissing overwhelming evidence that induced abortion does not place women at greater risk of breast cancer." This statement in the ABC-link fact sheet's discussion is misleading for two reasons: First, it implies that "inconclusiveness" is a particular flaw of studies which show evidence of the ABC link, when in fact, all epidemiological studies are inconclusive if considered in isolation and only become conclusive when considered in light of the overall findings of studies in the relevant literature. Second, the ABC-link fact sheet's characterization of the association between induced abortion and breast cancer as "possible" is misleading because the fact of an observed association - not a "possible" association- has been reported in most studies.

18. The ABC-link fact sheet states: "Adherents of this theory claim that interruption of the first trimester of a first pregnancy causes a cessation of cell differentiation that may result in a subsequent increase in the risk of cancerous growth in these tissues." This statement is misleading because it is generally accepted by the medical community, not just by "adherents of this theory," that such pregnancy interruption causes a cessation of cell differentiation.

19. The ABC-link fact sheet states: "Attempts to prove this theory, however, have failed." This statement is untrue and/or misleading because 17 independent studies throughout the world have substantiated the theory that induced abortion increases breast cancer risk by reporting positive associations that achieved statistical significance, including the only study yet published specifically commissioned by the National Cancer Institute to investigate the ABC link, the 1994 Daling

study. Moreover, the only published controlled experiments designed to test the theory linking termination of pregnancy and breast cancer have confirmed the link between termination of pregnancy and breast cancer.

20. The ABC-link fact sheet states that the 1997 study by Melbye et al., which is a cohort study rather than a case-control study., "benefited from its size - 1.5 million women." This statement is untrue and/or misleading because the ABC-link fact sheet notes small sample size as a limitation of many of the studies and repeatedly notes the size or number of subjects of a study throughout its presentation, creating the untrue and/or misleading impression that the. strength of the case-control and cohort studies can be compared by a direct comparison of the numbers of subjects observed. In fact, the strengths of case-control and cohort studies are not directly comparable based on the number of subjects observed, because cohort studies always require far greater numbers of subjects to achieve the same statistical power as case-control studies. The ABC-link fact sheet's discussion of the 1989 cohort study by Harris, et al., is untrue and/or misleading for the same reason. In addition, the size of the Melbye study was greatly exaggerated by its inclusion of many inappropriate subjects. Specifically, fully one-fourth of the Melbye cohort was born between the years 1968-1978, all of whom were under age 25 at the end of the study. Hence they were too young to account for more than 8 cases of breast cancer, while accounting for some 40,000 abortions. In like manner, the oldest one-fourth of the Melbye cohort, born between 1935-1945, contain most of the breast cancer patients, yet they were too old to have most of their abortion histories - which registry only commenced in 1973 recorded in the computer registry.

21. The ABC-link fact sheet states that the 1997 Melbye study avoided "one of the pitfalls observed in some case-control studies- that women with breast cancer were more likely to recall having had an induced abortion than women without breast cancer." This statement is untrue and/or misleading because in fact, only one study (not "some" studies) reported the observation of women with breast cancer being more likely to recall having an abortion than women without breast cancer. In this study, Lindefors-Harris et al. (1991), in claiming such a significant effect, relied on the dubious notion of "overreporting," i.e., that women with breast cancer had reported abortions that had not actually taken place. Importantly, the research team which had reported this observation retracted the notion of overreporting in a letter published in 1998. Defendant's statement is also untrue and/or misleading because it implies that so-called "recall bias" is an observed fact, when in truth, credible evidence of recall bias of the type that would produce an overestimation of the relative risk of breast cancer vis-a-vis abortion has never been published, .and several published studies provide evidence that such recall bias does not occur in studies of the link between induced abortion and breast cancer. The ABC-link fact sheet's discussion of recall bias is also misleading because immunity from recall bias is raised and characterized as a strength of the 1997 Melbye and the 1989 Lindefors-Harris study, which reported no overall risk increase, while immunity from recall bias is not raised and characterized as a strength of the 1989 Howe study, which found a positive association between induced abortion and breast cancer and employed a methodology that is not susceptible to recall bias.

22. The ABC-link fact sheet's presentation of the 1997 Melbye study states that the study "found no overall connection" between induced abortion and breast cancer and

implies that the study disproves that induced abortion is a cause of breast cancer. This statement and related discussion are untrue and/or misleading because they ignore the following ways in which the Melbye study clearly favors the view that estrogen overexposure due to induced abortion causes breast cancer over the view that so-called "recall bias" explains the association between induced abortion and breast cancer:

a. The study reported that "with each one week increase in the gestational age of the fetus... there was a 3 percent increase in the risk of breast cancer," so that among women who had second-trimester abortions breast cancer risk was higher by more than a third while among women who had abortions after 18 weeks the risk was almost doubled.

b. This trend of increasing risk with duration of pregnancy, which was itself statistically significant, is described in the Melbye study as in line with the hypothesis that breast cancer risk is increased by the prolonged estrogen exposure of early pregnancy not being followed by the protective hormonal milieu of late pregnancy. That is, the longer the breasts are exposed to the estrogen surge of pregnancy, the greater the expected risk increase.

c. Because of this study's cohort design, neither the trend of increasing risk with gestational age of the fetus at time of abortion nor the increased-risk among women who had second-trimester abortions found by the Melbye study can possibly be explained by recall bias.

23. The ABC-link fact sheet's characterization of the 1997 Melbye study as one of the strongest available is untrue and/or misleading as to the strength of the Melbye study, given the following defects and limitations of the study:

a. The 1997 Melbye study misclassified about 60,000 women who had had abortions as not having had abortions, and therefore its null overall finding likely resulted from a substantial underestimation of the actual overall relative risk.

b. The 1997 Melbye study was limited by failing to control for all confounding factors and by a limited follow-up period for part of the cohort.

c. The 1997 Melbye study commenced its registry of breast cancer cases in 1968, five years before the inception of the abortion registry, violating a fundamental rule of epidemiological research procedure (exposure must always precede outcome), and necessarily producing an underestimation of the relative risk.

24. The ABC-link fact sheet cites the 1989 Lindefors Harris study on Swedish women as evidence against a link between abortion and breast cancer but notes none of the limitations and/or flaws of the study. The ABC-link fact sheet's characterization of this study as one of the strongest available is untrue and/or misleading as to the strength of the study because the study estimated rather than directly counted the number of women in the cohort, was inexplicably and unjustifiably restricted to those women whose abortion occurred before age 30, had a short follow-up period, assumed that all women in the cohort were alive and living in Sweden at the end of follow-up, and did not adjust for parity and other potential confounders.

25. The ABC-link fact sheet states: "Studies Published During the Past 20 Years Offer Mixed Results." This characterization of the results as "mixed" and related discussion are untrue and/or misleading became they include studies which failed to distinguish between induced and

spontaneous abortion, even while acknowledging that induced and spontaneous abortions affect a woman's body differently. In this regard, the ABC-link fact sheet is also misleading when it presents the findings of the 1986 Hadjimichael study, which deals only with spontaneous abortions, as if that study were relevant to the increased risk of breast cancer caused by induced abortions. It is generally accepted that induced and spontaneous abortions must be studied separately in order to isolate the effects of induced abortion on breast cancer. By including these irrelevant studies, the ABC-link fact sheet obscures the fact that the overwhelming preponderance of the scientific evidence contained in relevant studies shows that induced abortion is a cause of breast cancer.

26. The ABC-link fact sheet states that before the 1997 Melbye study, "the body of published research showed inconsistent and inconclusive evidence – some found abortion to have a protective effect, others found a slightly elevated risk." This statement is untrue and/or misleading because in fact seven pre-1997 studies found a more than twofold overall elevated risk of breast cancer from induced abortion, which cannot be accurately characterized as a "slightly elevated risk."

27. The ABC-link fact sheet states that my 1996 comprehensive review and meta-analysis of the worldwide scientific literature "calculated that induced abortion places women at a slightly increased risk for developing breast cancer." This statement is untrue and/or misleading because in fact the meta-analysis reported an overall risk increase of thirty percent, which is not – and which my co-authors and I never characterized as – a slight risk increase. In fact, Dr. Smart Donnan, the editor-in-chief of the journal which published the meta-analysis, noted that the association documented in the meta-analysis "adds up to a large absolute

increase in risk with a very high prevalence of the underlying factor."

28. The ABC-link fact sheet states that the 1994 Daling study "was susceptible to reporting bias, since a breast cancer diagnosis may influence a woman's recall or disclosure of her reproductive history." This statement is untrue and/or misleading because it fails to explain that the study explicitly tested for reporting (or recall) bias and found none.

29. The ABC-link fact sheet states that the authors of the 1994 Daling study "reported that the study's limitations 'argue against a firm conclusion at this time' and called for further research." This statement is untrue and/or misleading because the phrase it selects for quotation from the Daling study is taken out of context. The phrase selected for quotation referred only to a particular subgroup of the study (i.e. those women with a history of abortion and a family history of breast cancer). The authors- in characterizing their overall results- concluded to the contrary, as follows" "Our data support the hypothesis that an induced abortion can adversely influence a woman's subsequent risk of breast cancer." Therefore, the ABC-link fact sheet is untrue and/or misleading because it misrepresents the conclusions of this study.

30. The ABC-link fact sheet states that a family history of breast cancer is associated with increased breast cancer risk, but does not mention the studies indicating a synergism between family history and induced abortion. This discussion is misleading because any discussion on induced abortion as a risk factor for breast cancer which mentions family history as a risk factor must, in order to accurately treat the role of family history as a risk factor, include those studies finding a synergism between a family history of breast cancer and

induced abortion. These studies find a significant increase in the risk of breast cancer in women who have both a family history of breast cancer and an induced abortion.

31. The ABC-link fact sheet characterizes dietary fat as a risk factor for breast cancer. The characterization of dietary fat as a risk factor, especially when coupled with the representation that induced abortion is not a risk factor, is untrue and/or misleading, because the evidence linking induced abortion with increased risk of breast cancer is much stronger than the evidence linking dietary fat with increased risk of breast cancer.

32. The ABC-link fact sheet states that "[t]he link between induced abortion and breast cancer is a theory whose principal promoters oppose abortion regardless of its safety." This statement is untrue and/or misleading because it implies that only those who oppose abortion acknowledge the credibility of the link between induced abortion and breast cancer. On the contrary, many of the scientists who conducted the studies finding a link between induced abortion and breast cancer do not oppose abortion.

33. The ABC-link fact sheet concludes: "The Planned Parenthood Position is That Abortion Poses no Demonstrated Health Risks...Because the research community has not reached a consensus on breast cancer and abortion, Planned Parenthood advises women who are considering terminating a pregnancy that there is no currently demonstrated health risk from abortion that would warrant basing a decision on that factor alone." These statements are untrue and/or misleading because breast cancer is indeed a demonstrated health risk of induced abortion. Moreover, I am personally aware of at least one woman who decided not to have an abortion as a result of

being informed about the scientific evidence linking induced abortion with increased breast cancer risk.

34. PPFA's and PPSDRC's answer of "No" to the question "Does abortion cause breast cancer?" is untrue and/or misleading, because the overwhelming preponderance of the evidence indicates that abortion does cause breast cancer, both by removing the protection against breast cancer to be gained by completing the pregnancy already in progress, and by increasing the risk of breast cancer independently of the loss of this protective effect.

35. PPSDRC's statement that "abortion does not offer the protection against breast cancer that having several full-term pregnancies does" is untrue and/or misleading, because it is universally acknowledged that the most important element of the protective effect of Nil-term pregnancy is the age at which the woman has her first full-term pregnancy, not the number of pregnancies.

36. PPFA's and PPSDRC's statements described infra are likely to mislead reasonable members of the public as to the safety of abortion, the safety of abortion vis-a-vis childbirth, and the link between induced abortion and breast cancer.

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DATED this 14th of August, 2001.

/s/ _____
JOEL L. BRIND, PhD.

STATE OF NEW YORK)
)ss
County of Dutchess)

On this 14th day of August, 2001 before me, the undersigned, a Notary Public in and for the State of New York, personally appeared JOEL L. BRIND, Ph.D., known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same.

IN WITNESS WHEREOF; I have hereunto set my hand and affixed my official seal the day and year first above written.

(Notarial Seal)

/s/ _____

NOTARY PUBLIC FOR THE STATE OF NEW YORK

Residing at 50 Hissan Avenue. Marlboro, NY 12542
My Commission expires December 5, 2002

EXHIBIT 14

[000001]

STATE OF CALIFORNIA

SECRETARY OF STATE

CERTIFICATE OF STATUS
FOREIGN ASSOCIATION

I, BILL JONES, Secretary of State of the State of California, hereby certify:

That on the **29th day of September, 1997, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.**, an association organized and existing under the laws of **NEW YORK**, complied with the requirements of California law in effect on that date for the purpose of qualifying to transact intrastate business in this State; and

That the above association is entitled to transact intrastate business in the State of California as of the date of this certificate, however, subject to any licensing requirements otherwise imposed by the laws of this State; and

That no information is available in this office of the financial condition, business activity or practices of this association.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of December 26, 2001.

/s/

BILL JONES
Secretary of State

[000002]

STATE OF CALIFORNIA

SECRETARY OF STATE

I, *BILL JONES,* Secretary Of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

December 26, 2000

/s/
Bill Jones
Secretary of State

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State of California
Bill Jones
Secretary of State

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Planned Parenthood Federation of America
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4. MAILING ADDRESS	# 2	CITY AND STATE: CA	ZIP CODE

LIST THE NAMES AND COMPLETE ADDRESSES OF THE FOLLOWING OFFICERS: (The corporation must have these three officers. An officer may hold more than one office. The appropriate title for the officer may be added but do not alter or obliterate the form).

	NAME	ADDRESS	CITY AND STATE	ZIP CODE
5. CHIEF EXECUTIVE OFFICER	Gloria Feldt	810 Seventh Ave.	NY NY	10019
6. SECRETARY	Eve W. Paul	810 Seventh Ave	NY NY	10019
7. CHIEF FINANCIAL OFFICER	Larry Moreland	810 Seventh Ave.	NY NY	10019

8. CHECK THE APPROPRIATE PROVISION BELOW AND NAME THE AGENT FOR SERVICE OF PROCESS:
☐ AN INDIVIDUAL RESIDING IN CALIFORNIA.
☒ A CORPORATION WHICH HAS FILED A CERTIFICATE PURSUANT TO SECTION 1505 OF THE CALIFORNIA CORPORATIONS CODE.

AGENT'S NAME: CSC Lawyers Incorporating Service C1592199

9. ADDRESS OF THE AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL		CITY: CA	ZIP CODE

10. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
Non-profit organization

11. I DECLARE THAT I HAVE EXAMINED THIS STATEMENT AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS TRUE, CORRECT AND COMPLETE.

57

GLORIA FELDT	Gloria Feldt	PRESIDENT	9/12/01
TYPE OR PRINT NAME OF SIGNING OFFICER OR AGENT	ORIGINAL SIGNATURE	TITLE	DATE

SO-250 (REV 3/01) — Approved by Secretary of State

BEST AVAILABLE COPY

000003

[000004]

STATE OF CALIFORNIA

SECRETARY OF STATE

I, *BILL JONES*, Secretary of State ofthe State of California, hereby certify:

That the attached transcript of 5 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

December 26 2000

/s/

Bill Jones
Secretary of State

[000005]

STATEMENT OF DESIGNATION
FOREIGN CORPORATION

SEPTEMBER 29, 1997

BILL JONES
Secretary of State

Planned Parenthood Federation of America, Inc., a corporation organized and existing under the laws of New York, makes the following statements and designation:

1. The address of its principal executive office is 810 Seventh Avenue, New York, NY 10019
(Insert complete address of principal executive office wherever located.)
DO NOT USE POST OFFICE BOX

2. The address of its principal office in the State of California is 333 Broadway, Third Floor, San Francisco, CA 94133
(Insert complete address of principal office in California.)
DO NOT USE POST OFFICE BOX

DESIGNATION OF AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA
(Complete Either Item 3 or Item 4)

3. (Use this Paragraph if the process **agent is** a natural **person**.)

_____
a natural person residing in the State of California, whose complete address is _____

_____.

DO NOT USE POST OFFICE BOX

is designated as agent upon whom process directed to the undersigned corporation may be served within the State of Cailfornia, in the manner provided by law.

[000006]

4. (Use this paragraph if the process agent is a Corporation) CT Corporation System, a corporation organized and existing under the laws of Delaware, is designated as agent upon whom process directed to the undersigned corporation may be served within the State of California, in the manner provided by law.

NOTE: Before a corporation may be designated by any other corporation as an agent for service of process, a corporate agent must have complied with Section 1505, California Corporations Code.

5. The undersigned corporation hereby irrevocably consents to service of process directed to it upon the agent designated above, and to service of process on the Secretary of State of the State of California if the agent so designated or the agent's successor is no longer authorized to act or cannot be found at the address given.

Planned Parenthood Federation of American, Inc.

/s/_____
(Signature of Corporate Officer)

Mark A. Trozzi, Grp. VP & CFO
(Typed Name and Title of Officer Signing)

[000007]

State of New York)
) SS:
Department of State)

I hereby certify, that the certificate of incorporation of PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. WAS FILED ON 04/22/1922, under the name of AMERICAN BRITH CONTROL LEAGUE, INC., as a Not-for-Profit corporation and that a diligent examination has been made of the index of corporation papers filed in this Department for a certificate, order, or record of a dissolution, and upon such examination, no such certificate, order or record has been found, and that so far as indicated by the records of this Department, such corporation is a subsisting corporation.

A Certificate of Amendment AMERICAN BIRTH CONTROL LEAGUE, INC., changing name to BIRTH CONTROL FEDERATION FO AMERICA, INC., was filed 01/19/1939.

A Certificate of Amendment BIRTH CONTROL FEDERATION OF AMERICA, INC., changing name to PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., was filed 02/18/1942.

***

Witness my hand and the official seal of the Department of State at the City of Albany, this 10th day of July, one thousand nine hundred and

ninety-seven.

/s/
Special Deputy Secretary of State

199707110444 51

[000008]

STATE OF CALIFORNIA
FRANCHISE TAX BOARD
PO BOX 1286
RANCHO CORDOVA CA 95741-1286

September 29, 1997

In reply refer to
755:G :PTS

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
C/O CHARLENE HALL-PICKEL
810 SEVENTH AVENUE
NEW YORK NY 10019

Purpose	:	EDUCATIONAL
Code Section	:	23701d
Form of Organization	:	Corporation
Accounting Period Ending	:	June 30

You are exempt from state franchise or income tax under the section of the Revenue and Taxation Code indicated above.

This decision is based on information you submitted and assumes that your present operations continue unchanged or conform to those proposed in your application. Any change in operation, character, or purpose of the organization must be reported immediately to this office so that we may determine the effect on your exempt status. Any change of name or address also must be reported.

In the event of a change in relevant statutory, administrative,

judicial case law, a change in federal interpretation of federal law in cases where our opinion is based upon such an interpretation, or a change in the material facts or circumstances relating to your application upon which this opinion is based, this opinion may no longer be applicable. It is your responsibility to be aware of these changes should they occur. This paragraph constitutes written advice, other than a chief counsel ruling, within the meaning of revenue and Taxation Code Section 21012(a)(2).

You may be required to file Form 199 (Exempt Organization Annual Information Return) on or before the 15th day of the 5th month (4 1/2 months) after the close of your accounting period. See annual instructions with forms for requirements.

You are not required to file state franchise or income tax returns unless you have income subject to the unrelated business income tax

[000009]

under section 23731 of the Code. In this event, you are required to file Form 109 (Exempt Organization Business Income Tax Return) by the 15th day of the 5th month (4 ½ months) after the close of your annual accounting period.

If the organization is incorporating, this approval will expire unless incorporation is completed with the Secretary of State within 60 days.

Exemption from federal income or other taxes and other state taxes requires separate applications.

P. SHEK
EXEMPT ORGANIZATIONS

PROCESSING SERVICE BUREAU
Telephone (916) 845-4180
EO:
cc: SECRETARY OF STATE
REGISTRY OF CHARITABLE TRUSTS

(4)

No. 04-69

Supreme Court, U.S.
FILED
SEP 15 2004
OFFICE OF THE CLERK

In The Supreme Court of the United States

AGNES BERNARDO, PAMELA COLIP and SAUNDRA DUFFY-HAWKINS,

Petitioners,

v.

PLANNED PARENTHOOD FEDERATION OF AMERICA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES,

Respondents.

On Petition For Writ Of Certiorari To The Court Of Appeal Of California, Fourth Appellate District, Division One

RESPONSE TO PETITION FOR WRIT OF CERTIORARI

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OR CALL COLLECT (402) 342-2831

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rules, Rule 29(6), Respondent Planned Parenthood of San Diego and Riverside Counties is a not-for-profit corporation that does not have a parent corporation and is not owned in any part by a publicly held company. Respondent Planned Parenthood Federation of America is a not-for-profit corporation that does not have a parent corporation and is not owned in any part by a publicly held company.

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I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner (Bernardo) brought an action in the Superior Court of California, in the County of San Diego alleging violations of California *Business and Professions Code* (B & P Code) sections 17200 and 17500 (California's unfair competition and false advertising laws) and seeking to restrain Respondents Planned Parenthood Federation of America and Planned Parenthood of San Diego and Riverside Counties (Planned Parenthood) from publishing their opinion that the credible scientific evidence does not establish a link between induced abortion and breast cancer. Bernardo further sought an order requiring Planned Parenthood to communicate Bernardo's view on the issue – that the scientific evidence does establish such a link – to all former and prospective abortion patients.

Planned Parenthood brought a Motion to Strike Strategic Lawsuit Against Public Participation (SLAPP) under California *Code of Civil Procedure* section 425.16 ('anti-SLAPP statute'). This statute provides in pertinent part:

> A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim. (App. 105a-108a)

The Superior Court granted Planned Parenthood's motion dismissing the Bernardo's Complaint. (App. 84a-104a) The trial court found that the lawsuit arose from Planned Parenthood's exercise of the right to free speech on a public issue (this was not an issue in dispute) and that Bernardo failed to present evidence to establish a probability

of prevailing on the merits. Pursuant to the anti-SLAPP statute, Planned Parenthood was awarded its attorneys' fees and costs.

Bernardo appealed both the order striking her complaint and the order awarding attorneys' fees. The appellate court affirmed the lower court's orders. Pursuant to the anti-SLAPP statute, Planned Parenthood was awarded its fees and costs on appeal. (App. 2a-66a) Bernardo was denied review by the California Supreme Court. (App. 1a)

II. BERNARDO FAILS TO STATE ANY COMPELLING REASON FOR REVIEW

A. REVIEW OF THE COURTS' APPLICATION OF EVIDENCE TO CALIFORNIA SUBSTANTIVE LAW DOES NOT IMPLICATE A FEDERAL QUESTION AND IS NOT GROUNDS FOR REVIEW

Bernardo claims that grounds for review exist because application of California *Code of Civil Procedure* section 425.16 to strike her complaint and to award fees and costs to Planned Parenthood violated her right to petition, Due Process, and Equal Protection under the U.S. Constitution and that, as a result, important questions of federal law were raised which must now be decided by this Court.

However, as is readily apparent in reading the Petition, her entire argument hinges on the underlying factual findings by the state courts and their determination that the evidence, viewed most favorable to her, could not sustain her claims under California's substantive law governing unfair competition and false advertising. In fact, she devoted much of her petition for review to setting forth the evidence she contends was improperly interpreted

and improperly applied to her claims by the lower courts. She is in effect arguing that the courts made erroneous factual findings with regard to the evidence she submitted in support of her state law claims and that the courts misapplied section 425.16 to her evidence. However, "a petition for writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law." (Supreme Court Rules, Rule 10.) Moreover, the criticisms Bernardo has concerning whether or not the evidence she presented could support her claims involves no question of federal law, rather it involves only whether she stated a claim under California law.

B. THERE IS NO IMPORTANT QUESTION OF FEDERAL LAW THAT NEEDS TO BE SETTLED BY THIS COURT

California's anti-SLAPP statute is a fee-shifting statute that provides an automatic award of attorneys' fees to a prevailing defendant. The fee award provision does not come into play until it has already been established that (1) plaintiff's complaint arises out of defendant's exercise of First Amendment rights, and (2) plaintiff cannot state and substantiate a legally sufficient claim. (CCP § 425.16(b).)

Bernardo challenges California's anti-SLAPP statute on federal constitutional grounds including the right to petition, the right to Due Process, and the right to Equal Protection. Her "right to petition" claim asserts that by imposing a mandatory award of fees on the losing plaintiff, the anti-SLAPP statute operates to deprive her of her First Amendment right to petition the court. Her "Due Process" and "Equal Protection" claims are grounded in

her assertion that there is "no meaningful standard for liability" under the statute, that there is no subjective intent requirement under the statute, and that the standard is different for successful plaintiffs and successful defendants. The same claims have been summarily denied by the California Supreme Court in *Equilon Enterprises LLC v. Consumer Cause, Inc.*, 29 Cal.4th 53, 52 P.3d 685, 124 Cal.Rptr.2d 507 (2002).

The right to petition is not absolute and provides little or no protection baseless litigation. *Equilon*, at 64. "Section 425.16 does not bar a plaintiff from litigating an action that arises out of the defendant's free speech or petitioning." *Id.* at 63. "It subjects to potential dismissal only those causes of action as to which the plaintiff is unable to show a probability of prevailing on the merits." *Id.* "It provides an efficient means of dispatching, early on in a lawsuit, and discouraging, insofar as fees may be shifted, a plaintiff's meritless claims." (citations omitted) *Id.* This fulfills the legislative intent behind the statute of "encouraging continued participation in matters of public significance" (§ 425.16(a)). (*See generally, Alyeska Pipeline Co. v. Wilderness Society,* 421 U.S. 240, 262, 95 S.Ct. 1612, 1624, 44 L.Ed.2d 141 [explaining that the "circumstances under which attorneys' fees are to be awarded and the range of discretion of the courts in making those awards are matters for Congress to determine"].)

Moreover, there are numerous federal statutes which contain similar fee-shifting provisions. *See, e.g., Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 478 U.S. 546, 562, 106 S.Ct. 3088, 92 L.Ed.2d 439 (1986) (noting that more than 100 federal statutes provide for attorneys' fees. As one federal appellate court so aptly posited, "fee-shifting statutes have become common."

Premier Electrical Construction Co. v. National Electrical Contractors Assoc., 814 F.2d 358, 373 (7th Cir. 1987). "They require the loser to pay the winner's fees. Loser-pays-winner statutes discourage litigation with a low chance of success." *Id.* "[T]he proposition that the first amendment, or any other part of the Constitution, prohibits or even has anything to say about fee-shifting statutes in litigation seems too farfetched to require extended analysis. Fee-shifting requires the party that creates the costs to bear them." (citations omitted) *Id.*

Bernardo relies on several cases to support her assertion that a showing of "frivolousness" is necessary in order to effect the attorneys' fees provision of section 425.16 including, *BE& K Construction Co. v. NLRB*, 536 U.S. 516 (2002); *Professional Real Estate Investors, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49 (1993); *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731 (1983); *Wilson v. Parker, Covert & Chidester*, 28 Cal.4th 811 (2002); *Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc.*, 42 Cal.3d 1157 (1986); and *Pacific Gas and Electric Co. v. Bear Stearns & Co.*, 50 Cal.3d 1118 (1990). Bernardo confuses the issue. Each of the cases she relies on involves the imposition of liability (in the form of asserting a cause of action for damages) against a litigant who was unsuccessful in a prior proceeding. In contrast, the fee-shifting provision of section 425.16 does not make a party "liable" for filing a lawsuit. *Equilon*, *supra*, at 62, citing and distinguishing, *Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc.*, 508 U.S. 49, 113 S.Ct. 1920, 123 L.Ed.2d 611 (1993). As noted by the California Supreme Court in *Equilon*, this Court has held that a defendant may obtain an attorneys' fee award where the plaintiff's suit is objectively "without foundation," noting that a finding of subjective bad faith is not a prerequisite.

Id., citing *Christiansburg Garment Co. v. EEOC,* 434 U.S. 412, 421, 98 S.Ct. 694, 700, 54 L.Ed.2d 648 (1978). Again, fee-shifting statutes simply require the party that creates the costs to bear them. *Premier Electrical Construction Co., supra*, 814 F.2d at 373. None of the cases cited by Bernardo purport to apply the reasoning therein to the context of fee-shifting statutes.

Equally without merit is Bernardo's inappropriate reliance on cases requiring a plaintiff to meet a higher evidentiary burden before imposing tort liability against a defendant for actions involving First Amendment activities, including free speech (*New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964); *Hustler Magazine v. Falwell*, 485 U.S. 46 (1988); *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989)), the right to petition (*McDonald v. Smith*, 472 U.S. 479, 105 S.Ct. 2787, 86 L.Ed.2d 384 (1985)), and freedom of association (*NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982)). Bernardo's flawed analysis ignores the fact that in the case at bar, she brought a claim against Planned Parenthood arising out of Planned Parenthood's First Amendment activity. Section 425.16 was designed to curtail baseless litigation that arises out of a defendant's exercise of First Amendment activities. In enacting section 425.16, the California Legislature sought to prevent the use of meritless litigation as a means to encroach upon or chill a person's exercise of First Amendment rights. This is precisely the evil the above cases sought to address by imposing a higher evidentiary standard on the plaintiff whose claim, like Bernardo's, arises out of defendant's exercise of First Amendment rights.

Finally, Bernardo's Due Process and Equal Protection claims do not raise any novel federal questions. Once it is

determined that an act is in furtherance of protected expression, the burden shifts to the plaintiff to show a "reasonable probability of prevailing" in those claims to survive dismissal. *Metabolife International, Inc. v. Wornick,* 263 F.3d 832, 840 (9th Cir. 2001), citing *Wilcox v. Superior Court,* 27 Cal.App.4th 809, 33 Cal.Rptr.2d 446, 455 (1994). The standard is much like that used to determine a motion for nonsuit or directed verdict, which mandates dismissal when "no reasonable jury" could find for the plaintiff. *Id.* The standard requires a plaintiff to present a sufficient legal basis for the claims and to set forth evidence of sufficient substantiality to support a claim. *Id.*

The fact that recovery of fees is different for plaintiffs and defendants under the statute does not raise Equal Protection concerns. Typically, a law will withstand an equal protection challenge if it bears a rational relationship to a legitimate governmental end. *Bovin v. Black,* 225 F.3d 36, 42 (1st Cir. 2000), citing, *Vacco v. Quill*, 521 U.S. 793, 799 (1997). Bernardo as a party-litigant subject to section 425.16 is not a "suspect class" for purposes of equal protection. Nor does this fee-shifting statute impermissibly burden the fundamental right of access to the courts. *Equilon*, *supra*, 29 Cal.4th at 64; and *see*, *Alyeska Pipeline Co., supra,* 421 U.S. at 262. Federal statutes which cap prisoner-litigants' attorneys' fees in civil rights cases have similarly been upheld. *Bovin*, *supra,* at 42. The *Bovin* court noted that prisoners are not a suspect class for purposes of Equal Protection and determined that the fee cap on a prisoner's recovery of attorneys' fees was rationally related to the legitimate government interests of discouraging frivolous suits, protecting the public fisc, and bringing prisoner incentives to litigate more in line with non-prisoner incentives. *Id.* (*See also*, *Riley v. Kurtz,* 361

F.3d 906, 917 (6th Cir. 2002), finding that capping prisoner's recovery of fees is rationally related to reducing the number of frivolous suits.) Similarly here, section 425.16 is designed to discourage unsubstantiated lawsuits that arise out of a defendant's exercise of First Amendment rights of free speech and petition. This purpose provides a rational basis for the disparity of treatment between the parties.

Moreover, this Court has already approved the use of differing standards for recovery of attorneys' fees in the context of Title VII cases depending on whether the prevailing party is a plaintiff or defendant. *Christiansburg*, *supra*, 434 U.S. at 421, 98 S.Ct. at 700. Under § 706(k) of Title VII, a prevailing plaintiff will ordinarily be awarded attorneys' fees barring special circumstances justifying an exception. In *Christiansburg*, this Court held that prevailing defendants however, would only be entitled to fees where it can be shown that plaintiff's action was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith. *Id.* Differing standards were found to be justified where the "equitable considerations" bear differently depending on which party prevails. *Id.* 434 U.S. at 419, 98 S.Ct. at 699. Similar to the Title VII provision at issue in *Christiansburg*, the attorneys' fees provision of section 425.16(c), provides for mandatory fees to a prevailing defendant, but only allows fees for a prevailing plaintiff where it is shown that the defendant's anti-SLAPP motion was frivolous or brought for purposes of delay. (CCP § 425.16(c).) In this way it shifts to plaintiff the costs defendant incurred having to extricate himself from a meritless lawsuit adversely affecting his right to engage in First Amendment activity. This serves the Legislature's declared purpose in enacting the statute to "encourage continued participation in matters of public significance" and to deter lawsuits which

encroach on a person's "right of petition or free speech in connection with a public issue." This concern is "wholly absent" in the case of a plaintiff who successfully opposes an anti-SLAPP motion. Thus, under *Christiansburg*, there is no Equal Protection concern.

III. CONCLUSION

There are no compelling reasons which would justify review of this matter. Bernardo simply disagrees with the manner in which the state courts interpreted and applied her evidence to the substantive law in the case. Because her claims arose out of Planned Parenthood's protected First Amendment activity and she was unable to state and substantiate a legally sufficient claim, she was subject to the fee-shifting provisions of California *Code of Civil Procedure* section 425.16(c). The statute has been upheld as constitutional by the California Supreme Court. *Equilon, supra*, 29 Cal.4th at 64. Moreover, there is a plethora of analogous federal fee-shifting statutes which have similarly passed constitutional muster.

Respondent Planned Parenthood respectfully requests that this Court deny Bernardo's Petition for Review.

Respectfully submitted,

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(5)

Supreme Court, U.S.
FILED
SEP 29 2004
OFFICE OF THE CLERK

No. 04-69

In the Supreme Court of the United States

AGNES BERNARDO, et al.,

Petitioners,

v.

PLANNED PARENTHOOD FEDERATION OF AMERICA. et al.,

Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of California

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Constitutional and Statutory Provisions

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I. Bernardo's Petition Concerns Vitally Important Federal Questions.

PPFA's assertion that Bernardo's Petition challenges evidentiary rulings made by the courts of California, see Response at 2-3, is wholly untenable. Bernardo does not challenge the evidentiary rulings made by the courts of the State of California; and she does not ask this Court to reverse the application of C.C.P. §425.16 based on her evidentiary showing. Bernardo's Petition asserts that the statutory standards set forth in C.C.P. §425.16 violate rights guaranteed to her by the United States Constitution.

Under these circumstances, there is no question that Bernardo's Petition is properly before this Supreme Court of the United States. "Interpretation of the law and the Constitution is the primary mission of the judiciary when it acts within the sphere of its authority to resolve a case or controversy." *Legal Services Corporation v. Velazquez*, 531 U.S. 533, 545 (2001). Bernardo has set forth the basis for her claims because, as this Court has explained:

> the reaches of the First Amendment are ultimately defined by the facts it is held to embrace, and we must thus decide for ourselves whether a given course of conduct falls on the near or far side of the line of constitutional protection....[W]e are obliged to make a fresh examination of crucial facts...so as to assure ourselves that th[is] judgment does not constitute a forbidden intrusion....

Hurley v. Irish-American Gay, Lesbian And Bisexual Group of Boston, 515 U.S. 557, 567 (1995) (citations omitted); *see also Bose Corp. v. Consumers Union,* 466 U.S. 485, 499-511 (1984)(*de novo* review applies to bench and jury decisions). Thus it is nonsensical for PPFA to argue that Bernardo's Petition is nothing but a challenge to evidentiary findings. Bernardo's Petition presents vitally important questions of federal law, *i.e.*, whether the use of C.C.P. §425.16 to strike her

claims and impose liability for fees and costs violated her constitutional right to petition, right to due process of law, and her right to the equal protection of the law.

A. Right To Petition

PPFA's effort to avoid Bernardo's claim based with reference to "baseless" litigation and "fee-shifting" must be rejected. Bernardo claims no absolute right to petition regardless of merit; her Petition concerns the substantive law standards and procedural protections that must be used to determine whether litigation is baseless (and can therefore provide the basis for liability) given that the fundamental right to petition is protected by the First Amendment.

By its terms C.C.P. §425.16 is wholly inconsistent with the protections for petitioning set forth in this Court's precedent. This Court has emphasized that "the lawsuit must be objectively baseless in the sense that no reasonable litigant could realistically expect success on the merits," *see Professional Real Estate Investors*, 508 U.S. at 60, 65; But Bernardo's claims were struck pursuant to C.C.P. §425.16 on the theory that she had not shown a "reasonable probability of success," and even though her showing is plainly sufficient to show that "similarly situated reasonable litigant could have perceived some likelihood of success." *Id.* at 65 (emphasis added). This Court has held that the First Amendment protects petitioning absent an improper motive, understood as "activities not genuinely aimed at procuring favorable government action," see *City of Columbia v. Omni Outdoor Advertising, Inc.*, 499 U.S. 365, 380 (1991); But Bernardo's claims were struck although the uncontested evidence of record establishes that Bernardo's petition is filed for a wholly legitimate purpose and with no prospect of personal gain. The vicious penalty imposed for petitioning by means of C.C.P. §425.16 leaves no doubt that "[t]he cure has become the disease...." *See Navellier v. Sletten*, 29 Cal. 4th 82, 96, 124 Cal.Rptr.2d 530 (2002)(Brown, J. dissenting).

PPFA's effort to portray as "inappropriate" Bernardo's reliance on cases addressing the First Amendment bar to tort liability is just plain wrong. For one thing, this Court has emphasized that "[t]he right to petition is cut from the same cloth as the other guarantees of that Amendment, and is an assurance of a particular freedom of expression." *McDonald v. Smith*, 472 U.S. 479, 482 (1985); *see also BE&K Construction Co. v. NLRB*, 536 U.S. 516 (2002)(drawing on defamation law to discuss the protection required for the right to petition). Recognizing that "[t]hese rights are inseparable, *see McDonald*, 472 U.S. at 485, this Court has drawn from principles protecting other First Amendment activity when discussing the right to petition.

In *McDonald* this Court held that the First Amendment allowed the imposition of damages for improper petitioning where the state law required a showing of malice in terms "consistent with *New York Time Co. v. Sullivan*...." finding that heightened protection appropriate where petitioning addresses a matter of public concern. *Id.* at 485. In a similar vein, this Court struck down laws burdening petitioning on behalf of the public interest. *Button*, 371 U.S. at 429 (striking down non-solicitation laws as applied to the NAACP precisely because "the First Amendment...protects vigorous advocacy...against governmental intrusion"); *see also In Re: Primus*, 436 U.S. 412, (1978)(noting that "collective activity undertaken to obtain meaningful access to the courts is a fundamental right within the meaning of the First Amendment...."). And this Court has struck down burdens heaped on disfavored petitions that would, by this means, prevent courts from redressing grievances. *See Velazquez*, 531 U.S. 533, 547 (2001)(rejecting effort to strip petitioners of attorney where petitioner advanced disfavored claims).

Taken together these cases demonstrate that Bernardo's petitioning lies at the very core of First Amendment activity. It is directed at public figures who enter the public arena for the

purpose of informing consumers and others about their services and influencing public discussion. *See e.g. Garrison v. State of Louisiana*, 379 U.S. 64, 72-73 (1964)(striking down criminal libel law as applied to speech directed against public official because "where the criticism is of public officials and their conduct of public business, the interest in private reputation is overborne by the larger public interest, secured by the Constitution, in the dissemination of truth."); *Gertz v. Welch*, 418 U.S. 323, 344-47 (1974)(noting public figures place themselves in public forum "in order to influence the resolution of issues involved."). It addresses a matter of public concern, *i.e.*, the link between PPFA's services and the number one cancer cause of death for middle-aged women in America. *Cf. Gertz*, 418 U.S. at 344-47 (1974)(public figures, who have "thrust themselves to the forefront of particular public controversies in order to influence the resolution of issues involved...."); *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749 (1985)(distinguishing credit report from speech about matter of public concern for purpose of defining protection provided by First Amendment). It is advanced by women of the most modest means pursuant to a statute that authorizes suits on behalf of the general public and seeks relief that is designed to serve the public interest. *Cf. Button*, 371 U.S. at 429 (public interest litigation not simply "private litigation."); *In Re: Primus*, 436 U.S. at 428 (same). These features of Bernardo's petitioning indicate that it is entitled to the greatest measure of constitutional protection.

By the same token, these features of Bernardo's petitioning activity belie PPFA's implication that Bernardo's claims threaten fee–shifting in general. For the cases cited above demonstrate that the protection provided by the First Amendment turns in some measure on the connection between that activity and the common good. *See also U.S. v. National Treasury Employees Union*, 513 U.S. 454 (1995)(striking down ban on honorarium for speech by government employees

pursuant to traditional test extending protection to speech of government employees when made with respect to matters of public concern). This Court has already applied these principles to protect petitioning activity. *See McDonald*, 472 U.S. at 485 (recognizing that heightened protection on petitioning is appropriate where the petition addresses a matter of public concern with reference *New York Time Co. v. Sullivan*....). Moreover, the two part test for petitioning activity established in *Professional Real Estate, supra*, closely parallels the "actual malice" standard governing speech in *New York Times, supra*, which is really no surprise given that "these First Amendment rights are inseparable...." *See McDonald*, 472 U.S. at 485. In short, the recognition that Bernardo's petitioning is entitled to the highest level of constitutional protection does not necessitate a wholesale repudiation of fee-shifting statutes.

In any event, PPFA cannot avoid the merits of Bernardo's petition simply by repeating the label "fee-shifting." After all, it is fundamental that the protections provided by the First Amendment cannot be avoided by labels. *See e.g. Legal Services Corp.*, 531 U.S. at 547 (focusing on effect of restriction barring attorney's from advancing disfavored claims "lest the First Amendment be reduced to a simple semantic exercise."); *Button*, 371 U.S. at 429 (voiding use of law barring solicitation of legal business as applied to activities of NAACP and noting "a State cannot foreclose the exercise of constitutional rights by mere labels). And this Court has struck down burdens on protected activity even when labeled "fees" precisely because this Court focuses on substance not form. *See e.g. Forsyth County, Georgia v. The Nationalist Movement*, 505 U.S. 123 (1992)(permit "fee" fixed with reference to estimated costs of dealing with probable reaction to speech turned on content and violated First Amendment).

Finally, PPFA's effort to distinguish cases recognizing that the First Amendment limitation on liability for protected

activity on the grounds that the liability flows from a prior proceeding is feckless. As an initial matter, it is not true; *Professional Real Estate Investors*, for example, involved a claim for liability (including liability for attorneys fees and costs) advanced in the lawsuit that was litigated. More importantly, this "distinction" has nothing to do with the substance of the matter; It is no comfort that the fine imposed by C.C.P. §425.16 is levied sooner rather than later; and the illicit burden on petitioning cannot be insulated from review based on nothing more than timing. In sum, C.C.P. §425.16 is an impermissible burden upon Bernardo's fundamental right to petition for the reasons she has stated–and PPFA has failed to address.

B. Right To Due Process Of Law.

There is no question that Due Process guarantees Bernardo's fundamental right to access the courts for the purpose of petitioning. *See e.g. Tennessee v. Lane*, __U.S. __, 124 S.Ct. 1978, 1993-95 (2004) (citing precedent recognizing the right to "meaningful access to the courts" and noting that "failure to accommodate persons with disabilities will often have the same practical effect as outright exclusion"). As Bernardo's fate demonstrates, the "probability of success" standard imposed by C.C.P. §425.16 is nothing more than a subjective weighing of imponderables. As such, it exposes petitioners to all the vices associated with vague laws, most particularly, because it "abuts upon sensitive areas of basic First Amendment freedoms, it operates to inhibit the exercise of (those) freedoms." *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972); *see also Button*, 371 U.S. at 435-36 (striking down vague law barring solicitation of legal business because "[i]n such circumstances, a statute...may easily become a weapon of oppression, however evenhanded its terms appear."). Bernardo's case demonstrates that C.C.P. §425.16 has "the same practical effect as outright exclusion" by conditioning access to the courts on the ability to pay a fine

levied for failure to satisfy a "probability of success" standard that is meaningless as applied to litigation (and susceptible to abuse).

C.C.P. §425.16 also fails to provide the procedural protections required by Due Process before Bernardo can be stripped of her right to petition and fined for a supposedly improper use of her access to the courts. Precisely because Bernardo's petitioning activity addresses a matter of public concern and is directed at public figures, the party seeking to strike the complaint (and impose liability) must bear the burden of proving Bernardo's petitioning is subjectively and objectively baseless by clear and convincing evidence. *See Professional Real Estate, supra* (no liability for petitioning under Sherman Act absent showing by defendant that petition was objectively baseless); *McDonald*, 472 U.S. at 485 (recognizing that heightened protection on petitioning is appropriate where the petition addresses a matter of public concern with reference *New York Times Co. v. Sullivan*); *Cf. New York Times*, 84 S.Ct. at 283-97 (First Amendment bars liability for speech addressing matters of public concern requiring directed at public figure unless plaintiff proves actual malice or reckless disregard for the truth). Indeed, requiring the moving party to make this showing before it can secure dismissal of a petition (and impose fee liability) is especially appropriate because (as this Court has recognized) "the fact that [a suit] loses does not mean it is false. At most it means the plaintiff did not meet its burden of proving its truth. That does not mean the defendant has proved–or could prove–the contrary." *BE&K*, 536 U.S. at 532-33.

C. Right To The Equal Protection Of The Law.

PPFA's effort to avoid Bernardo's equal protection challenge to C.C.P. §425.16 with reference to the rational basis test is egregious. This Court has recognized "this right to petition as one of the most precious liberties safeguarded by the Bill of Rights," *see BE&K*, 536 U.S. at 524-25, and it is

elementary that classifications burdening fundamental rights must withstand strict scrutiny. *See e.g. Carey v. Brown*, 447 U.S. 455 (1980)(law favoring labor picketing violated Equal Protection); *Clark v. Jetter*, 486 U.S. 456 (1988)(six year limitation period for paternity actions did not withstand heightened scrutiny under Equal Protection Clause). In this regard, PPFA's reliance upon *Bovin v. Black*, 225 F.3d 36, 42 (1st Cir. 2000), is risible for the simple (and painfully obvious) reason that there is no fundamental right to recover attorneys fees. In contrast, Due Process does bar fees which, like those imposed by C.C.P. §425.16, burden the fundamental right to access the courts. *See Lane*, 124 S.Ct. at 1994 & n.21.

There is no question that C.C.P. §425.16 violates Bernardo's right to the Equal Protection of the law. By its terms C.C.P. §425.16 singles out (and burdens) a specific category of petitioning activity based on its content, *i.e.*, complaints about activity arguably protected by the First Amendment, thereby engaging in improper discrimination among protected activity. *Cf. City of Chicago v. Mosley*, 408 U.S. 92, (1972)(ordinance prohibiting all picketing but peaceful labor picketing violated equal protection by discriminating among persons based on nature of their First Amendment activity). In its operation, C.C.P. §425.16 discriminates against these disfavored petitions by imposing different burdens with respect to the motion to strike (production v. persuasion) and different risks of liability (prevailing party v. frivolousness), effectively rigging the judicial system against petitioners who complain about conduct on the part of the defendant arguably protected by First Amendment. *Cf. Forsyth County*, 505 U.S. 123 (ordinance making permit "fees" turn on content of speech violated First Amendment); *Simon & Schuster, Inc. v. Members of the New York State Crime Victims Board*, 502 U.S. 105 (1991)(law requiring accused or convicted criminals to escrow funds from books imposed financial burden based on content in violation of First Amendment). In its effect, C.C.P. §425.16 favors

defendants (the moving party on the motion to strike) over plaintiffs (the nonmoving party) with respect to their views concerning whether the defendant's pre–litigation activity is protected by the First Amendment or represents an unprotected abuse of First Amendment rights. *Cf. Velazquez*, 531 U.S. at 548 (rejecting burden on petitioners advancing disfavored views on lawfulness); *see also New York Times*, 376 U.S. at 283-84 ("The power to create presumptions is not a means of escape from constitutional restrictions."). This case illustrates the perverse effect of the statute: Bernardo has evidence that PPFA is engaged in false advertising (unprotected speech); But PPFA used C.C.P. §425.16 to stifle her claim (and punish Bernardo) based on nothing more than sheer assertion–assertions contradicted by its own words and actions. *See* Petition at 7-10.

Moreover, Bernardo's plight shows that C.C.P. §425.16 is in no way narrowly tailored. The statute is plainly over–inclusive to the extent that it sweeps within its scope petitioning activity that is not baseless by this Court's definition but merely unsuccessful in terms of C.C.P. §425.16. It is under–inclusive insofar as it does not extend to plaintiffs exercising their fundamental right to petition with the same procedural protections provided to defendants. It is downright arbitrary insofar as it allows defendants the benefit of the statute based on a mere burden of production (i.e. that the defendants' activity is protected by the First Amendment) while forcing plaintiffs to bear the burden of persuasion (i.e. that their petitioning is protected by the First Amendment); and it allows prevailing defendants to impose liability for (supposedly) improper petitioning–although the defendants have no burden to prove that the suit is baseless. This last point shows that PPFA's reliance on *Christenburg* is wholly mistaken: that case favors prevailing plaintiffs on the grounds that they establish a violation of federal law by meeting their burden of proof. *Christenburg*, 434 U.S. at 418-19. The exact opposite result

follows from C.C.P. §425.16 which allows defendants to prevail (and impose liability) although failure to satisfy C.C.P. §425.16 "does not mean the defendant has proved–or could prove–the contrary." *See BE&K*, 536 U.S. at 532-33.

Conclusion

This Court has struck down laws burdening the fundamental right to petition the courts for a redress of grievances based in part on its recognition that "under the conditions of modern government, litigation may well be the sole practicable avenue open to a minority to petition for redress of grievances." *Button*, 371 U.S. at 430. Likewise, this Court has struck down laws that burden disfavored petitions because such laws "prohibit[] speech and expression upon which courts must depend for the proper exercise of the judicial power" and "threaten[] severe impairment of the judicial function." *Velazquez*, 531 U.S. at 545. It is just so here. Who cannot see that Bernardo has been punished for wholly legitimate petitioning, and, in this way, the chill on petitioning that follows from C.C.P. §425.16? Who cannot see the evils that are possible if statutes can heap selective burdens on petitions which, because disfavored by the state, are singled out for hostile treatment. And who cannot see that if the label "fee-shifting" insulates all such burdens from review, then the right to petition will be reduced to a pious platitude for all but the most affluent litigants. Ultimately the common good will suffer; for it takes but a moment to bring to mind the many hallmark cases throughout our history that have greatly served the common good–but which, when filed, did not have a "reasonable probability of prevailing on the merits" by the measure of most men. For the reasons stated in Bernardo's papers, C.C.P. §425.16 burdens her constitutional right to petition, her right to due process of law, and her right to the equal protection of the law. This Supreme Court of the United States should grant her Petition and decide the vitally important questions of federal law that she presents for its review.

Respectfully submitted,

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